

103D CONGRESS
1ST SESSION

S. 540

To improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 10 (legislative day, MARCH 3), 1993

Mr. HEFLIN (for himself, Mr. GRASSLEY, Mr. BRYAN, Mr. CAMPBELL, Mr. COCHRAN, Mr. CONRAD, Mr. DECONCINI, Mr. DURENBERGER, Mr. INOUE, Mr. KOHL, and Mr. ROTH) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE IMPROVEMENT.—This Act may be
5 cited as the “Bankruptcy Amendments Act of 1993”.

- 1 (b) TABLE OF CONTENTS.—The table of contents is
 2 as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

- Sec. 101. Expedited hearing on automatic stay.
 Sec. 102. Expedited filing of plans under chapter 11.
 Sec. 103. Expedited filing of plans under chapter 12.
 Sec. 104. Expedited procedure for reaffirmation of debts.
 Sec. 105. Powers of bankruptcy courts.
 Sec. 106. Participation by bankruptcy administrator at meetings of creditors and equity security holders.
 Sec. 107. Definition relating to eligibility to serve on chapter 11 committees.
 Sec. 108. Increased incentive compensation for trustees.
 Sec. 109. Dollar adjustments.
 Sec. 110. Premerger notification.
 Sec. 111. Allowance of creditor committee expenses.
 Sec. 112. Delay of repeal of chapter 12 (family farmers).
 Sec. 113. Judicial conference report.
 Sec. 114. Service of process.
 Sec. 115. Pension plan contributions.
 Sec. 116. Meetings of creditors and equity security holders.

TITLE II—COMMERCIAL ISSUES IN BANKRUPTCY

- Sec. 201. Small business chapter.
 Sec. 202. Single asset real estate.
 Sec. 203. Aircraft equipment, vessels, and rolling stock equipment.
 Sec. 204. Unexpired leases of personal property in chapter 11 cases.
 Sec. 205. Protection of assignees of executory contracts and unexpired leases approved by court order in cases reversed on appeal.
 Sec. 206. Protection of security interest in post-petition rents.
 Sec. 207. Anti-alienation.
 Sec. 208. Exemption.
 Sec. 209. Indenture trustee compensation.
 Sec. 210. Payment of Federal Internal Revenue taxes with borrowed funds.
 Sec. 211. Return of goods.
 Sec. 212. Exception to discharge.
 Sec. 213. Proceeds of money order agreements.
 Sec. 214. Limitation on liability of noninsider transferee for avoided transfer.
 Sec. 215. Perfection of purchase-money security interest.
 Sec. 216. Airport gate leases.
 Sec. 217. Trustee duties.
 Sec. 218. Payments.
 Sec. 219. Seller's right to reclaim goods.
 Sec. 220. Payment of insurance benefits to retired employees.

TITLE III—CONSUMER BANKRUPTCY ISSUES

- Sec. 301. Period for curing default relating to principal residence.
 Sec. 302. Nondischargeability of fine under chapter 13.
 Sec. 303. Protection of child support and alimony.
 Sec. 304. Bankruptcy petition preparers.

- Sec. 305. Conversion or dismissal.
- Sec. 306. Contents of plan.
- Sec. 307. Stay of action against codebtor.
- Sec. 308. Exemption for household goods.
- Sec. 309. Professional fees.

TITLE IV—BANKRUPTCY REVIEW COMMISSION

- Sec. 401. Short title.
- Sec. 402. Establishment.
- Sec. 403. Duties of the commission.
- Sec. 404. Membership.
- Sec. 405. Compensation of the commission.
- Sec. 406. Staff of commission; experts and consultants.
- Sec. 407. Powers of the commission.
- Sec. 408. Report.
- Sec. 409. Termination.
- Sec. 410. Authorization of appropriations.

TITLE V—TECHNICAL CORRECTIONS

- Sec. 501. Title 11, United States Code.
- Sec. 502. Title 28, United States Code.

TITLE VI—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS

- Sec. 601. Severability.
- Sec. 602. Effective date; application of amendments.

TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

SEC. 101. EXPEDITED HEARING ON AUTOMATIC STAY.

The last sentence of section 362(e) of title 11, United States Code, is amended—

(1) by striking “commenced” and inserting “concluded”; and

(2) by inserting “, unless the 30-day period is extended with the consent of the parties in interest or for a specific time which the court finds is required by compelling circumstances” before the period at the end.

1 **SEC. 102. EXPEDITED FILING OF PLANS UNDER CHAPTER**

2 **11.**

3 Section 1121(d) of title 11, United States Code, is
4 amended—

5 (1) by striking “On” and inserting “(1) Subject
6 to paragraph (2), on”; and

7 (2) by adding at the end the following new
8 paragraph:

9 “(2) Under paragraph (1)—

10 “(A) the 120-day period referred to in this sec-
11 tion may not be increased beyond the 1-year period
12 beginning on the date of the order for relief under
13 this chapter; and

14 “(B) the 180-day period referred to in this sec-
15 tion may not be increased beyond the 425-day period
16 beginning on the date of the order for relief under
17 this chapter,

18 unless the need for such an increase is attributable to cir-
19 cumstances for which the debtor should not justly be held
20 accountable.”.

21 **SEC. 103. EXPEDITED FILING OF PLANS UNDER CHAPTER**

22 **12.**

23 Section 1221 of title 11, United States Code, is
24 amended by striking “an extension is substantially justi-
25 fied” and inserting “the need for an extension is attrib-

1 utable to circumstances for which the debtor should not
 2 justly be held accountable”.

3 **SEC. 104. EXPEDITED PROCEDURE FOR REAFFIRMATION**
 4 **OF DEBTS.**

5 (a) REAFFIRMATION.—Section 524(c) of title 11,
 6 United States Code, is amended—

7 (1) in paragraph (2)—

8 (A) by inserting “(A)” after “(2)”;

9 (B) by adding “and” at the end; and

10 (C) by inserting after subparagraph (A),
 11 as designated by subparagraph (A), the follow-
 12 ing new subparagraph:

13 “(B) such agreement contains a clear and
 14 conspicuous statement that advises the debtor
 15 that the agreement is not required under this
 16 title, under nonbankruptcy law, or under any
 17 agreement that is not in accordance with the
 18 provisions of this subsection;” and

19 (2) in paragraph (3)—

20 (A) in the matter preceding subparagraph

21 (A) by striking “such agreement” the last place
 22 it appears;

23 (B) in subparagraph (A)—

24 (i) by inserting “such agreement”
 25 after “(A)” and

1 (ii) by striking “and” at the end; and
 2 (C) in subparagraph (B)—

3 (i) by inserting “such agreement”
 4 after “(B)” ; and

5 (ii) by adding “and” at the end; and

6 (3) by adding at the end the following new sub-
 7 paragraph:

8 “(C) the attorney fully advised the debtor
 9 of the legal effect and consequences of—

10 “(i) an agreement of the kind de-
 11 scribed in this subsection; and

12 “(ii) any default under such an agree-
 13 ment;”.

14 (b) EFFECT OF DISCHARGE.—The third sentence of
 15 section 524(d) of title 11, United States Code, is amended
 16 in the matter preceding paragraph (1) by inserting “and
 17 was not represented by an attorney during the course of
 18 negotiating the agreement” after “this section”.

19 **SEC. 105. POWERS OF BANKRUPTCY COURTS.**

20 (a) STATUS CONFERENCES.—Section 105 of title 11,
 21 United States Code, is amended by adding at the end the
 22 following new subsection:

23 “(d) The court, on its own motion or on the motion
 24 of any party in interest, may—

1 “(1) hold a status conference regarding any
2 case or proceeding under this title after notice to the
3 parties in interest; and

4 “(2) unless it would be inconsistent with an-
5 other provision of this title or with applicable Bank-
6 ruptcy Rules, issue an order at any such conference
7 prescribing such limitations and conditions as the
8 court deems to be appropriate to ensure that the
9 case is handled expeditiously and economically, in-
10 cluding an order that—

11 “(A) sets the date by which the debtor
12 must accept or reject an executory contract or
13 unexpired lease; or

14 “(B) in a case under chapter 11—

15 “(i) sets a date by which the debtor,
16 or the trustee if one has been appointed,
17 shall file a disclosure statement and plan;

18 “(ii) sets a date by which the debtor,
19 or the trustee if one has been appointed,
20 shall solicit acceptances of a plan;

21 “(iii) sets the date by which a party
22 in interest other than a debtor may file a
23 plan;

1 “(iv) fixes the notice to be provided
 2 regarding the hearing on approval of the
 3 disclosure statement;

4 “(v) provides that the hearing on ap-
 5 proval of the disclosure statement may be
 6 combined with the hearing on confirmation
 7 of the plan; and

8 “(vi) directs the use of standard-form
 9 disclosure statements, plans, or other
 10 forms that have been adopted by the
 11 court.”.

12 (b) ABSTENTION.—Section 1334 of title 28, United
 13 States Code, is amended—

14 (1) by redesignating subsection (d) as sub-
 15 section (e);

16 (2) in the second sentence of subsection (c)(2)
 17 by striking “Any” and inserting the following:

18 “(d) Any”; and

19 (3) in the first sentence of subsection (d), as
 20 designated by paragraph (2), by inserting “(other
 21 than a decision not to abstain in a proceeding de-
 22 scribed in subsection (c)(2))” after “subsection”.

23 (c) ESTABLISHMENT, OPERATION, AND TERMI-
 24 NATION OF BANKRUPTCY APPELLATE PANEL SERVICE.—

1 Section 158(b) of title 28, United States Code, is amend-
2 ed—

3 (1) by striking paragraphs (3) and (4);

4 (2) by redesignating paragraph (2) as para-
5 graph (4);

6 (3) by striking paragraph (1) and inserting the
7 following new paragraphs:

8 “(1)(A) Except as provided in subparagraph (B), the
9 judicial council of a circuit shall establish a bankruptcy
10 appellate panel service composed of bankruptcy judges of
11 the districts in the circuit who are appointed by the judi-
12 cial council in accordance with paragraph (3), to hear and
13 determine, with the consent of all parties to an appeal,
14 appeals under subsection (a).

15 “(B)(i) The judicial council of a circuit need not es-
16 tablish a bankruptcy appellate panel service if the judicial
17 council finds that—

18 “(I) there are insufficient judicial resources
19 available in the circuit; or

20 “(II) establishment of such a service would re-
21 sult in undue delay or increased cost to parties in
22 cases under title 11.

23 “(ii) Not later than 90 days after making a finding
24 under clause (i), the judicial council shall submit to the

1 Judicial Conference a report containing the factual basis
2 of the finding.

3 “(2)(A) A judicial council may reconsider a finding
4 described in paragraph (1)(B) at any time.

5 “(B) On the request of a majority of the district
6 judges in a circuit for which a bankruptcy appellate panel
7 service is established under paragraph (1), made after the
8 expiration of the 1-year period beginning on the date on
9 which the service is established, the judicial council of the
10 circuit shall determine whether a circumstance described
11 in paragraph (1)(B)(i) (I) or (II) exists.

12 “(C) On its own motion, after the expiration of the
13 3-year period beginning on the date on which a bank-
14 ruptcy appellate panel service is established under para-
15 graph (1), the judicial council of a circuit may determine
16 whether a circumstance described in paragraph (1)(B)(i)
17 (I) or (II) exists.

18 “(D) If the judicial council of a circuit finds that a
19 circumstance described in paragraph (1)(B)(i) (I) or (II)
20 exists, the judicial council may provide for the completion
21 of the appeals then pending before a bankruptcy appellate
22 panel service and the orderly termination of the service.

23 “(3) Bankruptcy judges appointed under paragraph
24 (1) shall be appointed for a term of 2 years and may be
25 reappointed under that paragraph.”; and

1 (4) by inserting after paragraph (4), as redesign-
2 nated by paragraph (2), the following new para-
3 graphs:

4 “(5) An appeal to be heard under this subsection
5 shall be heard by a panel of 3 members of the bankruptcy
6 appellate panel service, except that a member of the serv-
7 ice may not hear an appeal originating in the district for
8 which the member is appointed or designated under sec-
9 tion 152.

10 “(6) Appeals may not be heard under this subsection
11 by a panel of the bankruptcy appellate panel service unless
12 the district judges for the district in which the appeals
13 occur, by majority vote, have authorized the service to
14 hear and determine appeals originating in that district.”.

15 (d) APPEALS TO BE HEARD BY BANKRUPTCY AP-
16 PELLATE PANEL SERVICE.—Section 158 of title 28, Unit-
17 ed States Code, is amended—

18 (1) in subsection (c) by striking “(c) An ap-
19 peal” and inserting the following:

20 “(c)(1) Subject to subsection (b), an appeal under
21 subsection (a) shall be heard by a 3-judge panel of the
22 bankruptcy appellate panel service established under sub-
23 section (b)(1) unless—

24 “(A) the appellant elects, at the time of filing
25 the appeal; or

1 “(B) any other party elects, not later than 30
2 days after service of notice of the appeal,
3 to have the appeal heard by the district court.

4 “(2) An appeal”.

5 (e) RULES OF PROCEDURE AND EVIDENCE; METHOD
6 OF PRESCRIBING.—Section 2073 of title 28, United
7 States Code, is amended—

8 (1) in subsection (a)(2) by striking “section
9 2072” and inserting “sections 2072 and 2075”; and
10 (2) in subsections (d) and (e) by inserting “or
11 2075” after “2072” each place it appears.

12 (f) EFFECTIVE DATE OF BANKRUPTCY RULES.—
13 Section 2075 of title 28, United States Code, is amended
14 by striking “ninety days” and inserting “180 days”.

15 **SEC. 106. PARTICIPATION BY BANKRUPTCY ADMINIS-**
16 **TRATOR AT MEETINGS OF CREDITORS AND**
17 **EQUITY SECURITY HOLDERS.**

18 (a) PRESIDING OFFICER.—A bankruptcy adminis-
19 trator appointed under section 302(d)(3)(I) of the Bank-
20 ruptcy Judges, United States Trustees, and Family Farm-
21 er Bankruptcy Act of 1986 (28 U.S.C. 581 note; 100 Stat.
22 3123), or the bankruptcy administrator’s designee, may
23 preside at—

24 (1) a meeting of creditors convened under sec-
25 tion 341(a) of title 11, United States Code; and

1 (2) a meeting of equity security holders con-
2 vened under section 341(b) of title 11, United States
3 Code.

4 (b) EXAMINATION OF THE DEBTOR.—The bank-
5 ruptcy administrator or the bankruptcy administrator’s
6 designee may examine the debtor at the meeting of credi-
7 tors and may administer the oath required under section
8 343 of title 11, United States Code.

9 **SEC. 107. DEFINITION RELATING TO ELIGIBILITY TO SERVE**
10 **ON CHAPTER 11 COMMITTEES.**

11 The definition of “person” in section 101 of title 11,
12 United States Code, as amended by section 501(a), is
13 amended to read as follows:

14 “‘person’ includes an individual, partnership,
15 and corporation, but does not include a govern-
16 mental unit, except that a governmental unit that—

17 “(A) acquires an asset from a person—

18 “(i) as a result of the operation of a
19 loan guarantee agreement; or

20 “(ii) as receiver or liquidating agent
21 of a person;

22 “(B) is a guarantor of a pension benefit
23 payable by or on behalf of the debtor or an af-
24 filiate of the debtor; or

1 “(C) is the legal or beneficial owner of an
2 asset of—

3 “(i) an employee pension benefit plan
4 that is a governmental plan, as defined in
5 section 414(d) of the Internal Revenue
6 Code of 1986; or

7 “(ii) an eligible deferred compensation
8 plan, as defined in section 457(b) of the
9 Internal Revenue Code of 1986,
10 shall be considered, for purposes of section 1102, to
11 be a person with respect to such asset or such bene-
12 fit.”.

13 **SEC. 108. INCREASED INCENTIVE COMPENSATION FOR**
14 **TRUSTEES.**

15 Section 326(a) of title 11, United States Code, is
16 amended by striking “fifteen” and all that follows through
17 “\$3,000” the last place it appears and inserting “25 per-
18 cent on the first \$5,000 or less, 10 percent on any amount
19 in excess of \$5,000 but not in excess of \$50,000, 5 percent
20 on any amount in excess of \$50,000 but not in excess of
21 \$1,000,000, and reasonable compensation not to exceed
22 3 percent of such moneys in excess of \$1,000,000”.

1 **SEC. 109. DOLLAR ADJUSTMENTS.**

2 (a) WHO MAY BE A DEBTOR UNDER CHAPTER 13.—

3 Section 109(e) of title 11, United States Code, is amend-
4 ed—

5 (1) by striking “unsecured debts of less than
6 \$100,000 and noncontingent, liquidated, secured
7 debts of less than \$350,000” and inserting “debts of
8 less than \$1,000,000”; and

9 (2) by striking “unsecured debts that aggregate
10 less than \$100,000 and noncontingent, liquidated,
11 secured debts of less than \$350,000” and inserting
12 “debts in the aggregate of less than \$1,000,000”.

13 (b) INVOLUNTARY CASES.—Section 303(b) of title
14 11, United States Code, is amended—

15 (1) in paragraph (1) by striking “\$5,000” and
16 inserting “\$10,000”; and

17 (2) in paragraph (2) by striking “\$5,000” and
18 inserting “\$10,000”.

19 (c) PRIORITIES.—Section 507(a) of title 11, United
20 States Code, is amended—

21 (1) in paragraph (3)(B) by striking “\$2,000”
22 and inserting “\$4,000”;

23 (2) in paragraph (4)(B)(i) by striking “\$2,000”
24 and inserting “\$4,000”;

25 (3) in paragraph (5) by striking “\$2,000” and
26 inserting “\$4,000”; and

1 (4) in paragraph (6) by striking “\$900” and in-
2 serting “\$1,800”.

3 (d) EXEMPTIONS.—Section 522(d) of title 11, United
4 States Code, is amended—

5 (1) in paragraph (1) by striking “\$7,500” and
6 inserting “\$15,000”;

7 (2) in paragraph (2) by striking “\$1,200” and
8 inserting “\$2,400”;

9 (3) in paragraph (3)—

10 (A) by striking “\$200” and inserting
11 “\$400”; and

12 (B) by striking “\$4,000” and inserting
13 “\$8,000”;

14 (4) in paragraph (4) by striking “\$500” and in-
15 serting “\$1,000”;

16 (5) in paragraph (5)—

17 (A) by striking “\$400” and inserting
18 “\$800”; and

19 (B) by striking “\$3,750” and inserting
20 “\$7,500”;

21 (6) in paragraph (6) by striking “\$750” and in-
22 serting “\$1,500”;

23 (7) in paragraph (8) by striking “\$4,000” and
24 inserting “\$8,000”; and

1 (8) in paragraph (11)(D) by striking “\$7,500”
2 and inserting “\$15,000”.

3 (e) APPOINTMENT OF EXAMINER IN CERTAIN CIR-
4 CUMSTANCES.—Section 1104(b)(2) of title 11, United
5 States Code, is amended by striking “\$5,000,000” and in-
6 serting “\$10,000,000”.

7 **SEC. 110. PREMERGER NOTIFICATION.**

8 Section 363(b)(2) (A) and (B) of title 11, United
9 States Code, are amended to read as follows:

10 “(A) notwithstanding subsection (a) of
11 that section, the notification required to be
12 given by the debtor shall be given by the trust-
13 ee; and

14 “(B) notwithstanding subsection (b) of
15 that section, the required waiting period shall
16 end on the 10th day after the date of receipt
17 of the notification, unless the waiting period is
18 extended—

19 “(i) pursuant to subsection (e)(2) or
20 (g)(2) of that section; or

21 “(ii) by the court, after notice and a
22 hearing.”.

1 **SEC. 111. ALLOWANCE OF CREDITOR COMMITTEE EX-**
2 **PENSES.**

3 Section 503(b) of title 11, United States Code, is
4 amended—

5 (1) by striking “and” at the end of paragraph
6 (5);

7 (2) by striking the period at the end of para-
8 graph (6) and inserting “; and”; and

9 (3) by adding at the end the following new
10 paragraph:

11 “(7) the actual, necessary expenses incurred by
12 a member of a committee appointed under section
13 1102 in the performance of the duties of the com-
14 mittee, other than claims for compensation for serv-
15 ices rendered as a member of the committee.”.

16 **SEC. 112. DELAY OF REPEAL OF CHAPTER 12 (FAMILY**
17 **FARMERS).**

18 Section 302(f) of the Bankruptcy Judges, United
19 States Trustees, and Family Farmer Bankruptcy Act of
20 1986 (11 U.S.C. 1201 note; 100 Stat. 3124) is amended
21 by striking “October 1, 1993” and inserting “October 1,
22 1998”.

23 **SEC. 113. JUDICIAL CONFERENCE REPORT.**

24 Not later than 180 days after the date of enactment
25 of this Act, the Judicial Conference of the United States

1 shall produce and submit to the appropriate committees
2 of Congress a report containing a description of—

3 (1) the efforts of the Federal judiciary to auto-
4 mate and computerize the Federal bankruptcy
5 courts;

6 (2) the types of information that are currently
7 available to Congress and the public regarding the
8 number, size, and types of bankruptcy cases filed in
9 the Federal courts;

10 (3) the types of additional information that the
11 Federal judiciary believes are necessary and desir-
12 able to enhance its ability to manage the affairs of
13 the bankruptcy system; and

14 (4) the projected timetable for being able to
15 supply those additional types of information to Con-
16 gress and the public in the future.

17 **SEC. 114. SERVICE OF PROCESS.**

18 Rule 7004(b)(3) of the Bankruptcy Rules is amend-
19 ed—

20 (1) by inserting “, by certified or registered
21 mail,” after “complaint”; and

22 (2) by inserting “, by certified or registered
23 mail,” after “copy”.

1 **SEC. 115. PENSION PLAN CONTRIBUTIONS.**

2 (a) TREATMENT AS ADMINISTRATIVE EXPENSES.—

3 Section 503(b) of title 11, United States Code, as amend-
4 ed by section 405, is amended—

5 (1) by striking “and” at the end of paragraph
6 (6);

7 (2) by striking the period at the end of para-
8 graph (7) and inserting “; and”; and

9 (3) by adding at the end the following new
10 paragraph:

11 “(8) minimum funding contributions to an em-
12 ployee pension benefit plan for which the debtor is
13 liable, which accrue on or after the date of com-
14 mencement of the case (regardless of the time such
15 contribution comes due), under section 412 of the
16 Internal Revenue Code of 1986 and section 302 of
17 the Employee Retirement Income Security Act of
18 1974 (29 U.S.C. 1082).”.

19 (b) PAYMENT OR POSTPONEMENT OF MINIMUM
20 FUNDING CONTRIBUTIONS DUE PENSION PLANS.—

21 (1) IN GENERAL.—Subchapter I of chapter 11
22 of title 11, United States Code, is amended by add-
23 ing at the end the following new section:

1 **“§ 1115. Contributions to certain employee pension**
2 **benefit plans**

3 “(a) TIMELY PAYMENT OF CONTRIBUTIONS.—Ex-
4 cept as provided in subsection (b), the debtor in posses-
5 sion, or the trustee if one has been appointed, shall make
6 any minimum funding contributions for which the debtor
7 is liable, which accrue on or after the date of commence-
8 ment of the case (regardless of the time such contribution
9 comes due), under section 412 of the Internal Revenue
10 Code of 1986 and section 302 of the Employee Retirement
11 Income Security Act of 1974 (29 U.S.C. 1082).

12 “(b) POSTPONEMENT OF CONTRIBUTIONS.—(1)(A)
13 Subject to paragraph (2), the court may, on motion of any
14 party and after notice and hearing, determine that the
15 making of all or part of a minimum funding contribution
16 required to be made by a debtor to a pension plan may
17 be postponed until a date that is not later than—

18 “(i) the effective date of a plan of reorganiza-
19 tion confirmed under section 1129; or

20 “(ii) if the case is converted to a case under
21 chapter 7, the date on which a distribution of prop-
22 erty is made under section 726.

23 “(B) In making a determination under subparagraph
24 (A), the court shall take into account the requirements
25 of the estate.

1 “(C) Interest shall accrue on the amount of a con-
2 tribution that is postponed from the date on which the
3 contribution became due to the date of payment at the
4 rate specified in section 412(m) of the Internal Revenue
5 Code of 1986 and section 302(e) of the Employee Retire-
6 ment Income Security Act of 1974 (29 U.S.C. 1082(e)).

7 “(2)(A) Before permitting payment of all or part of
8 a contribution to be postponed, the court shall grant secu-
9 rity to the pension plan and, in the case of a plan covered
10 under section 4021 of the Employee Retirement Security
11 Act of 1974 (29 U.S.C. 1321), the Pension Benefit Guar-
12 anty Corporation, for the amount of a contribution that
13 is postponed, affording adequate protection in accordance
14 with section 364(d)(1)(B).

15 “(B) If the debtor in possession or trustee fails to
16 make a postponed contribution on the date on which it
17 is to be made under an order issued under paragraph (1),
18 the pension plan shall be permitted to foreclose on the se-
19 curity provided under subparagraph (A).

20 “(c) NOTICE.—The administrator of the pension plan
21 and, in the case of a plan covered under section 4021 of
22 the Employee Retirement Income Security Act of 1974
23 (29 U.S.C. 1321), the Pension Benefit Guaranty Corpora-
24 tion, shall be given notice of and may participate in any

1 hearing seeking postponement of a contribution or fore-
2 closure under this section.”.

3 (2) TECHNICAL AMENDMENT.—The chapter
4 analysis for chapter 11 of title 11, United States
5 Code, is amended by inserting after the item for sec-
6 tion 1114 the following new item:

“1115. Contributions to certain employee pension benefit plans.”.

7 (c) CLARIFICATION OF EXISTING LAW.—

8 (1) APPLICATION OF AMENDMENT.—The
9 amendment of section 550 of title 11, United States
10 Code, made by section 214 shall apply with respect
11 to a transfer to a pension plan that is subject to the
12 minimum funding requirements of section 412 of the
13 Internal Revenue Code of 1986 and section 302 of
14 the Employee Retirement Income Security Act of
15 1974 (29 U.S.C. 1082) only if the transfer is the
16 subject of a motion or proceeding seeking avoidance
17 of the transfer that is filed on or after the date of
18 passage of this Act in the Senate.

19 (2) PURPOSE TO CLARIFY.—(A) In making the
20 amendments made by subsections (a) and (b), it is
21 the purpose of Congress to clarify the meaning of
22 the provisions that are amended as they existed
23 prior to the date of enactment of this Act.

24 (B) The amendments made by subsections (a)
25 and (b) shall not be applied so as to supersede or

1 alter any agreement or understanding (or modifica-
2 tions thereto before or after enactment) regarding a
3 debtor's minimum funding contributions entered into
4 among a debtor, the Internal Revenue Service, and
5 the Pension Benefit Guaranty Corporation prior to
6 the date of enactment of this Act. If any agreement
7 or understanding referenced in the preceding sen-
8 tence is set aside or not implemented because of the
9 act or omission of the Pension Benefit Guaranty
10 Corporation, the law applicable to all matters in that
11 proceeding shall be determined without regard to
12 subsections (a) or (b).

13 **SEC. 116. MEETINGS OF CREDITORS AND EQUITY SECURITY**
14 **HOLDERS.**

15 Section 341 of title 11, United States Code, is
16 amended by adding at the end the following new sub-
17 section:

18 “(d) Prior to the conclusion of the meeting of credi-
19 tors or equity security holders, the United States trustee
20 shall orally examine the debtor under oath and make rec-
21 ommendations on a preserved record regarding the debt-
22 or's knowledge of—

23 “(1) the potential consequences of seeking a
24 discharge in bankruptcy, including the effects on
25 credit history;

1 “(2) the debtor’s ability to file a petition under
2 a different chapter of this title;

3 “(3) the effect of receiving a discharge of debts
4 under this title;

5 “(4) the effect of reaffirming a debt, including
6 the debtor’s knowledge of the provisions of section
7 524(d);

8 “(5) the debtor’s duties under section 521; and

9 “(6) the potential penalties and fines for com-
10 mitting fraud or other abuses of this title.”.

11 **TITLE II—COMMERCIAL ISSUES** 12 **IN BANKRUPTCY**

13 **SEC. 201. SMALL BUSINESS CHAPTER.**

14 (a) DEFINITION.—Section 101 of title 11, United
15 States Code, is amended by inserting in its proper alpha-
16 betical position the following new definition:

17 “ ‘small business’ means a person engaged in
18 commercial or business activities (but does not in-
19 clude a person whose primary activity is the business
20 of owning or operating real property and activities
21 incidental thereto) whose aggregate liquidated se-
22 cured and unsecured debts as of the date of the peti-
23 tion do not exceed \$2,500,000.”.

1 (b) WHO MAY BE A DEBTOR UNDER CHAPTER 10.—

2 Section 109 is amended by adding at the end the following
3 new subsection:

4 “(h) Only a small business may be a debtor under
5 chapter 10.”.

6 (c) TEMPORARY CHAPTER APPLICABLE TO SMALL
7 BUSINESSES.—Title 11, United States Code, is amended
8 by inserting after chapter 9 the following new chapter:

9 **“CHAPTER 10—SMALL BUSINESSES**

“SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE

“Sec.

“1001. Definitions for this chapter.

“1002. Commencement of case.

“1003. Trustee.

“1004. Rights and powers of debtor.

“1005. Removal of debtor as debtor-in-possession.

“1006. Property of the estate.

“1007. Conversion or dismissal.

“SUBCHAPTER II—THE PLAN

“1021. Filing of plan.

“1022. Contents of plan.

“1023. Postpetition disclosure and solicitation.

“1024. Modification of plan before confirmation.

“1025. Confirmation hearing.

“1026. Confirmation of plan.

“1027. Payments.

“1028. Effect of confirmation.

“1029. Modification of plan after confirmation.

“1030. Revocation of order of confirmation.

10 **“Subchapter I—Officers, Administration, and**
11 **the Estate**

12 **“§ 1001. Definitions for this chapter**

13 “In this chapter, ‘disposable income’ means income
14 that is received by a debtor and that is not reasonably
15 necessary to be expended for the payment of expenditures

1 necessary for the continuation, preservation, and oper-
2 ation of the debtor's business.

3 **“§ 1002. Commencement of case**

4 “(a) ELECTION BY DEBTOR.—A person that is eligi-
5 ble to be a small business debtor may commence a case
6 under this chapter by filing a voluntary petition electing
7 to be treated as a small business.

8 “(b) CONVERSION.—

9 “(1) THIS CHAPTER TO CHAPTER 11.—Upon
10 the motion of a party in interest, and after notice
11 and a hearing, the court may determine that a per-
12 son subject to an order for relief electing treatment
13 under this chapter does not qualify as a small busi-
14 ness, and that the case shall be converted to a case
15 under chapter 11, 12, or 13.

16 “(2) COMPENSATION OF TRUSTEE.—Prior to
17 the court's conversion of a case under this section,
18 the court shall charge upon and require to be paid
19 from the estate such compensation as the court finds
20 reasonable under the circumstances to compensate
21 the trustee appointed and serving under section
22 1003.

23 **“§ 1003. Trustee**

24 “(a) PERSON TO SERVE.—If the United States trust-
25 ee has appointed a person under section 586(b) of title

1 28 to serve as a standing trustee in cases under this chap-
2 ter and if that person qualifies as a trustee under section
3 322, that person shall serve as a trustee in any case filed
4 under this chapter. If such a person has not been ap-
5 pointed, the United States trustee shall appoint one disin-
6 terested person to serve as trustee in the case or the Unit-
7 ed States trustee may serve as trustee in the case.

8 “(b) DUTIES.—The trustee shall—

9 “(1) perform the duties described in section
10 704 (2), (3), (5), (6), (7), and (9);

11 “(2) perform the duties described in section
12 1106(a) (3) and (4) if the court, for cause and on
13 a request of a party in interest, the trustee, or the
14 United States trustee, so orders;

15 “(3) appear and be heard at any hearing that
16 concerns—

17 “(A) the value of property subject to a
18 lien;

19 “(B) the operation of the business activity
20 of the person by the debtor;

21 “(C) the filing of a plan and the approval
22 of a disclosure statement;

23 “(D) confirmation of a plan;

24 “(E) modification of a plan after confirma-
25 tion; or

1 “(F) the sale of property of the estate;

2 “(4) ensure that the debtor timely files a plan
3 and disclosure statement;

4 “(5) ensure that the debtor commences making
5 timely payments required by a confirmed plan;

6 “(6) if the debtor ceases to be a debtor-in-pos-
7 session, perform the duties described in sections
8 704(8) and 1106(a) (1), (2), (6), and (7);

9 “(7) investigate the financial affairs of the
10 debtor including, but not limited to, the proper use
11 of disposable income;

12 “(8) file and serve the report required by sec-
13 tion 1029(d); and

14 “(9) file such motions as are appropriate under
15 section 1029.

16 **“§ 1004. Rights and powers of debtor**

17 “Subject to such limitations as the court may pre-
18 scribe, a debtor-in-possession shall have all the rights,
19 other than the right to compensation under section 330,
20 and powers, and shall perform all the functions and duties,
21 except the duties described in section 1106(a) (3) and (4),
22 of a trustee serving in a case under chapter 11, including
23 operating the debtor’s business activities.

1 **“§ 1005. Removal of debtor as debtor-in-possession**

2 “(a) ORDER FOR CAUSE.—On request of a party in
3 interest, and after notice and a hearing, the court shall
4 order that the debtor shall not be a debtor-in-possession
5 if cause, including fraud, dishonesty, incompetence, or
6 gross mismanagement of the affairs of the debtor, either
7 before or after the commencement of the case, is shown.

8 “(b) REINSTATEMENT.—On request of a party in in-
9 terest, and after notice and a hearing, the court may rein-
10 state the debtor-in-possession.

11 **“§ 1006. Property of the estate**

12 “(a) PROPERTY INCLUDED.—Property of the estate
13 includes, in addition to property described in section 541,
14 all property of the kind specified in that section that the
15 debtor acquires after the commencement of the case but
16 before the case is closed, dismissed, or converted to a case
17 under chapter 7, whichever comes first.

18 “(b) POSSESSION.—Except as provided in section
19 1005 or in a confirmed plan or order confirming a plan,
20 a debtor shall remain in possession of all property of the
21 estate.

22 **“§ 1007. Conversion or dismissal**

23 “(a) CONVERSION BY DEBTOR.—A debtor may con-
24 vert a case under this chapter to a case under chapter
25 7 at any time if the debtor may be a debtor under that

1 chapter. Any waiver of the right to convert under this sub-
2 section is unenforceable.

3 “(b) DISMISSAL BY DEBTOR.—On request of the
4 debtor at any time, if the case has not been converted
5 under section 706 or 1112, the court may dismiss a case
6 under this chapter.

7 “(c) CONVERSION OR DISMISSAL AT REQUEST OF
8 PARTY IN INTEREST.—

9 “(1) IN GENERAL.—On request of a party in
10 interest, and after notice and a hearing, the court
11 may convert a case under this chapter to a case
12 under chapter 7 (if the debtor may be a debtor
13 under this chapter) or may dismiss the case for
14 cause.

15 “(2) CAUSE.—For purposes of paragraph (1),
16 cause includes—

17 “(A) unreasonable delay or gross mis-
18 management by the debtor that is prejudicial to
19 creditors;

20 “(B) nonpayment of any fees and charges
21 required under chapter 123 of title 28;

22 “(C) failure to file a plan timely under sec-
23 tion 1021;

24 “(D) failure to file a disclosure statement
25 timely under section 1023;

1 “(E) failure to commence making timely
2 payments required by a confirmed plan;

3 “(F) denial of confirmation of a plan
4 under section 1026 or denial of a request made
5 for additional time to filing another plan or a
6 modification of a plan;

7 “(G) material default by a debtor with re-
8 spect to a term of a confirmed plan;

9 “(H) revocation of an order of confirma-
10 tion under section 1030 or denial of confirma-
11 tion of a modified plan under section 1029;

12 “(I) termination of a confirmed plan by
13 reason of the occurrence of a condition specified
14 in the plan; and

15 “(J) continuing loss to or diminution of
16 the estate and absence of a reasonable likeli-
17 hood of rehabilitation.

18 “(d) COMPENSATION OF TRUSTEE.—Prior to the
19 court’s conversion or dismissal of a case under this sec-
20 tion, the court shall charge upon and require to be paid
21 from the estate such compensation as the court finds rea-
22 sonable under the circumstances to compensate the trustee
23 appointed and serving under section 1003.

1 **“Subchapter II—The Plan**

2 **“§ 1021. Filing of plan**

3 “The debtor shall file a plan not later than 90 days
4 after the date of entry of the order for relief under this
5 chapter, except that the court may, for cause shown, and
6 after notice and hearing, shorten or extend that period if
7 such shortening or extension is substantially justified.

8 **“§ 1022. Contents of plan**

9 “(a) REQUIRED CONTENTS.—The plan shall—

10 “(1) provide for the submission of all or such
11 portion future earnings or other future income of
12 the debtor to the supervision and control of the
13 trustee as is necessary for the execution of the plan;
14 and

15 “(2) if the plan classifies claims and interests,
16 provide the same treatment for each claim or inter-
17 est within a particular class unless the holder of a
18 particular claim or interest agrees to less favorable
19 treatment.

20 “(b) ADDITIONAL CONTENTS.—Subject to sub-
21 sections (a) and (c), the plan may—

22 “(1) designate a class or classes of unsecured
23 claims, as provided in section 1122, but may not dis-
24 criminate unfairly against any class so designated;
25 however, the plan may treat claims for a consumer

1 debt differently from other unsecured claims if an-
2 other individual is liable on the consumer debt with
3 the debtor;

4 “(2) modify the rights of holders of secured
5 claims or holders of unsecured claims, or leave unaf-
6 fected the rights of holders of any class of claims,
7 but the plan may not modify a claim pursuant to
8 section 506 of a person holding a primary or junior
9 security interest in real property or a manufactured
10 home (as defined in section 603(6) of the National
11 Manufactured Housing Construction and Safety
12 Standards Act of 1974 (42 U.S.C. 5402(6)) that is
13 the debtor’s principal residence, except that the plan
14 may modify the claim of a person holding such a
15 junior security interest that was undersecured at the
16 time the interest attached to the extent that the in-
17 terest remains undersecured;

18 “(3) provide for the curing or waiving of any
19 default;

20 “(4) provide for payments on any unsecured
21 claim to be made concurrently with payments on any
22 secured claim or any other unsecured claim;

23 “(5) notwithstanding paragraph (2), provide for
24 the curing of any default within a reasonable time
25 and maintenance of payments while the case is

1 pending on any unsecured claim or secured claim on
2 which the last payment is due after the date on
3 which the final payment under the plan is due;

4 “(6) subject to section 365, provide for the as-
5 sumption, rejection, or assignment of any executory
6 contract or expired lease of the debtor not previously
7 rejected under that section;

8 “(7) provide for the payment of all or part of
9 a claim against the debtor from the property of the
10 estate or property of the debtor;

11 “(8) provide for the sale of all or any part of
12 the property of the estate among those having an in-
13 terest in such property;

14 “(9) provide for payment of allowed secured
15 claims, consistent with section 1026(a)(5), over a pe-
16 riod exceeding the period permitted under section
17 1022(c);

18 “(10) provide for the vesting of property of the
19 estate on confirmation of the plan or at a later time,
20 in the debtor or any other entity; and

21 “(11) include any other appropriate provision
22 not inconsistent with this title.

23 “(c) LIMITATION.—Except as provided in subsection
24 (b)(5) and (9), the plan may not provide for payments
25 over a period that is longer than 3 years unless the court

1 for cause approves a longer period, but the court may not
2 approve a period that is longer than 5 years.

3 **“§ 1023. Postpetition disclosure and solicitation**

4 “(a) PLAN AND DISCLOSURE STATEMENT.—In a
5 case under this chapter, an acceptance or rejection of a
6 plan may not be solicited after the commencement of the
7 case from a holder of a claim or interest with respect to
8 the claim or interest unless, at the time or before such
9 solicitation, there is transmitted to the holder the plan or
10 a summary of the plan and a written disclosure statement
11 that includes information sufficient to show whether or not
12 the plan meets the requirements of section 1026.

13 “(b) FORM.—The court may require that the sum-
14 mary of the plan and the disclosure statement employ a
15 standard form approved by the court.

16 **“§ 1024. Modification of plan before confirmation**

17 “(a) IN GENERAL.—A debtor may modify a plan at
18 any time before confirmation but may not modify the plan
19 so that the plan as modified fails to meet the requirements
20 of section 1022.

21 “(b) EFFECT.—After a debtor files a modification
22 under this section, the plan as modified becomes the plan.

23 “(c) ACCEPTANCE.—A holder of a secured claim that
24 has accepted or rejected a plan is deemed to have accepted

1 or rejected, as the case may be, the plan as modified, un-
2 less—

3 “(1) the modification provides for a change in
4 the rights of the holder under the plan before modi-
5 fication; and

6 “(2) the holder changes the holder’s previous
7 acceptance or rejection.

8 **“§ 1025. Confirmation hearing**

9 “(a) HEARING.—After expedited notice, the court
10 shall hold a hearing on confirmation of the plan.

11 “(b) OBJECTION TO CONFIRMATION.—A party in in-
12 terest, the trustee, or the United States trustee may object
13 to the confirmation of the plan.

14 “(c) OBJECTION TO DISCLOSURE OF INFORMA-
15 TION.—A party in interest, the trustee, or the United
16 States trustee may object to the disclosure of information
17 that is required to be disclosed under section 1023.

18 “(d) CONCLUSION OF HEARING.—Except for cause,
19 the hearing shall be concluded not later than 45 days after
20 the filing of the plan.

21 **“§ 1026. Confirmation of plan**

22 “(a) CRITERIA.—Except as provided in subsection
23 (b), the court shall confirm a plan if—

24 “(1) the plan complies with all applicable provi-
25 sions of this title;

1 “(2) any fee, charge, or amount required under
2 chapter 123 of title 28, or by the plan, to be paid
3 before confirmation, has been paid;

4 “(3) the plan has been proposed in good faith
5 and not by any means forbidden by law;

6 “(4) the value of property to be distributed
7 under the plan on account of each unsecured claim,
8 as of the effective date of the plan, is not less than
9 the amount that would be paid on the claim if the
10 estate of the debtor were to be liquidated under
11 chapter 7 on that date;

12 “(5) with respect to each allowed secured claim
13 provided for by the plan—

14 “(A) the holder of the claim has accepted
15 the plan;

16 “(B)(i) the plan provides that the holder of
17 the claim will retain the lien securing the claim;
18 and

19 “(ii) the value of property to be distributed
20 by the trustee or the debtor under the plan on
21 account of the claim, as of the effective date of
22 the plan, is not less than the allowed amount of
23 the claim; or

24 “(C) the debtor surrenders the property se-
25 curing the claim to the holder;

1 “(6) the debtor will be able to make all pay-
2 ments under the plan and to comply with the plan;

3 “(7) except to the extent that the holder of a
4 claim has agreed to a different treatment of the
5 claim, the plan provides that—

6 “(A) with respect to a claim of a kind de-
7 scribed in section 507(a) (1) or (2), on the ef-
8 fective date of the plan, the holder of the claim
9 will receive on account of the claim cash equal
10 to the allowed amount of the claim;

11 “(B) with respect to a class of claims of a
12 kind described in section 507(a) (3), (4), (5), or
13 (6), each holder of a claim of the class will re-
14 ceive cash or deferred cash payments of a value,
15 as of the effective date of the plan, equal to the
16 allowed amount of such claims; and

17 “(C) with respect to a claim of a kind de-
18 scribed in section 507(a)(7), the holder of the
19 claim will receive on account of the claim de-
20 ferred cash payments, over a period ending on
21 the later of—

22 “(i) the date of termination of the
23 plan; or

24 “(ii) the date that is 6 years after the
25 date of assessment of the claim,

1 of a value, as of the effective date of the plan,
2 equal to the allowed amount of the claim; and

3 “(8) confirmation of the plan is not likely to be
4 followed by the liquidation or the need for further fi-
5 nancial reorganization of the debtor or any successor
6 to the debtor under the plan, unless liquidation or
7 reorganization is proposed in the plan.

8 “(b) CONFIRMATION NOTWITHSTANDING NONCON-
9 FORMANCE OR OBJECTION.—If the trustee or the holder
10 of an allowed unsecured claim objects to the confirmation
11 of the plan, the court may not approve the plan unless,
12 as of the effective date of the plan—

13 “(1) the value of the property to be distributed
14 under the plan on account of the claim is not less
15 than the amount of the claim; or

16 “(2) the plan provides that all of the debtor’s
17 projected disposable income to be received in the 3-
18 year period, or such longer period as the court may
19 approve under section 1022(c), beginning on the
20 date on which the first payment is due under the
21 plan, will be applied to make payments under the
22 plan.

23 **“§ 1027. Payments**

24 “(a) RETENTION BY TRUSTEE.—Payments and
25 funds received by the trustee shall be retained by the

1 trustee until confirmation or denial of confirmation of a
2 plan.

3 “(b) DISTRIBUTION FOLLOWING CONFIRMATION.—If
4 a plan is confirmed, the trustee shall distribute in accord-
5 ance with the plan payments and funds retained pursuant
6 to subsection (a).

7 “(c) RETURN FOLLOWING NONCONFIRMATION.—If a
8 plan is not confirmed, the trustee shall return any pay-
9 ments and funds retained pursuant to subsection (a), after
10 deducting—

11 “(1) any unpaid claim allowed under section
12 503(b); and

13 “(2) if a standing trustee is serving in the case,
14 the percentage fixed for the standing trustee under
15 section 1003.

16 “(d) PAYMENTS PRECEDING PAYMENTS TO CREDI-
17 TORS.—Before or at the time of each payment to creditors
18 under the plan, there shall be paid—

19 “(1) any unpaid claim of a kind described in
20 section 507(a)(1); and

21 “(2) if a standing trustee is serving in the case,
22 the percentage fee fixed for such standing trustee
23 under section 1003.

24 “(e) PAYMENTS TO CREDITORS.—Except as other-
25 wise provided in the plan or in the order confirming the

1 plan, the trustee shall make payments to creditors under
2 the plan.

3 **“§ 1028. Effect of confirmation**

4 “(a) PERSONS BOUND.—Except as provided in sub-
5 section (d) (2) and (3), a confirmed plan binds the debtor,
6 any entity issuing securities under the plan, any entity ac-
7 quiring property under the plan, and any creditor, equity
8 security holder, or general partner of the debtor, whether
9 or not the claim or interest of such creditor, equity secu-
10 rity holder, or general partner is impaired under the plan
11 and whether or not such creditor, equity security holder,
12 or general partner has accepted the plan.

13 “(b) VESTING OF PROPERTY.—Except as otherwise
14 provided in the plan or order confirming the plan, the con-
15 firmation of a plan vests all of the property of the estate
16 in the debtor.

17 “(c) FREEDOM OF PROPERTY FROM CLAIMS AND IN-
18 TERESTS.—Except as provided in subsection (d) (2) and
19 (3), and except as otherwise provided in the plan or in
20 the order confirming the plan, after confirmation of a
21 plan, the property dealt with by the plan is free and clear
22 of all claims and interests of creditors, equity security
23 holders, and general partners of the debtor.

24 “(d) DISCHARGE OF DEBTOR.—

1 “(1) ON COMPLETION OF PAYMENTS.—As soon
2 as practicable after completion by the debtor of all
3 payments under the plan, other than payments to
4 holders of allowed claims provided for under section
5 1022(b) (5) or (9), unless the court approves a writ-
6 ten waiver of discharge executed by the debtor after
7 the order for relief under this chapter, the court
8 shall grant the debtor a discharge of all debts pro-
9 vided for by the plan allowed under section 503 or
10 disallowed under section 502, except any debt—

11 “(A) provided for under section 1022(b)
12 (5) or (9); or

13 “(B) of the kind specified in section
14 523(a).

15 “(2) WHEN PAYMENTS ARE NOT COM-
16 PLETED.—At any time after the confirmation of the
17 plan and after notice and a hearing, the court may
18 grant a discharge to a debtor that has not completed
19 payments under the plan if—

20 “(A) the debtor’s failure to complete such
21 payments is due to circumstances for which the
22 debtor should not be justly held accountable;

23 “(B) the value, as of the effective date of
24 the plan, of property actually distributed under
25 the plan on account of each allowed secured

1 claim is not less than the amount that would
2 have been paid on the claim if the estate of the
3 debtor had been liquidated under chapter 7 on
4 that date; and

5 “(C) modification of the plan under section
6 1029 is not practicable.

7 “(3) EFFECT.—A discharge granted under
8 paragraph (2) discharges the debtor from all unse-
9 cured debts provided for by the plan or disallowed
10 under section 502, except any debt—

11 “(A) provided for under section 1022(b)(5)
12 or (9); or

13 “(B) of a kind specified in section 523(a).

14 “(4) REVOCATION.—On request of a party in
15 interest made before the date that is 1 year after the
16 date on which a discharge under this section is
17 granted, and after notice and hearing, the court may
18 revoke the discharge if—

19 “(A) the discharge was obtained by the
20 debtor through fraud; and

21 “(B) the requesting party did not know of
22 the fraud until after the discharge was granted.

23 “(e) TERMINATION OF SERVICES OF TRUSTEE.—
24 After the debtor is granted a discharge, the court shall
25 terminate the services of any trustee serving in the case.

1 **“§ 1029. Modification of plan after confirmation**

2 “(a) IN GENERAL.—At any time after confirmation
3 of a plan but before the completion of payments under
4 the plan, the plan may be modified, on request of the debt-
5 or, the trustee, or the holder of any allowed unsecured
6 claim, to—

7 “(1) increase or reduce the amount of payments
8 of claims of a particular class provided for by the
9 plan;

10 “(2) extend or reduce the time for such pay-
11 ments; or

12 “(3) alter the amount of the distribution to a
13 creditor whose claim is provided for by the plan to
14 the extent necessary to take account of any payment
15 of the claim other than under the plan.

16 “(b) APPLICABILITY OF REQUIREMENTS.—Sections
17 1022 (a) and (b) and 1024 and the requirements of sec-
18 tion 1025(a) apply to a modification under subsection (a).

19 “(c) LIMITATION.—A plan modified under subsection
20 (a) may not provide for payments over a period that ex-
21 pires after 3 years after the date on which the first pay-
22 ment under the original confirmed plan was due, unless
23 the court, for cause, approves a longer period, but the
24 court may not approve a period that expires after 5 years
25 after that date.

1 “(d) REPORT.—Not later than 60 days after each an-
2 niversary of the confirmation of the plan, the trustee shall
3 file a report with the court, and serve a copy on all credi-
4 tors requesting service of a copy of the report, setting
5 forth—

6 “(1) the amount of distributions made to credi-
7 tors during the preceding year;

8 “(2) a description of the debtor’s compliance
9 with the provisions of the plan during the preceding
10 year;

11 “(3) a description of the debtor’s disposable in-
12 come in relation to the continued ability to comply
13 with the terms of the confirmed plan; and

14 “(4) any modifications to the plan that are nec-
15 essary to ensure the reorganization of the debtor
16 and the payment to creditors of all disposal income.

17 **“§ 1030. Revocation of order of confirmation**

18 “(a) REVOCATION FOR FRAUD.—On request of a
19 party in interest at any time within 180 days after the
20 date of the entry of an order of confirmation under section
21 1028, and after notice and a hearing, the court may re-
22 voke the order if the order was procured by fraud.

23 “(b) DISPOSITION OF CASE AFTER REVOCATION.—
24 If the court revokes an order of confirmation under sub-
25 section (a), the court shall dispose of the case under sec-

tion 1007, unless, within a time fixed by the court, the debtor proposes and the court confirms a modification of the plan under section 1029.”.

(d) TECHNICAL AMENDMENTS.—

(1) TABLE OF CHAPTERS IN TITLE 11, UNITED STATES CODE.—Title 11, United States Code, is amended in the table of chapters by inserting after the item relating to chapter 9 the following new item:

“10. Small Businesses 1001”.

(2) CROSS-REFERENCES IN TITLE 11, UNITED STATES CODE.—Title 11, United States Code, is amended—

(A) in section 321(a) by inserting “10,” after “7,” each place it appears;

(B) in section 322(a) by inserting “1005” after “703,”;

(C) in section 326(b)—

(i) by striking “12 or 13” and inserting “10, 12, or 13”; and

(ii) by striking “1202(a) or 1302(a)” and inserting “1005, 1202(a), or 1302(a)”;

(D) in section 327—

(i) in subsection (b) by inserting “1005,” after “721,”; and

1 (ii) in subsection (c) by inserting
2 “10,” after “7,”;

3 (E) in section 329(b)(1)(B) by inserting
4 “10,” after “chapter”;

5 (F) in section 330(c) by striking “12 or
6 13” and inserting “10, 12, or 13”;

7 (G) in section 346—

8 (i) in subsection (b) by inserting
9 “10,” after “7,”;

10 (ii) in subsection (g)(1)(C) by striking
11 “11 or 12” and inserting “10, 11, or 12”;
12 and

13 (iii) in subsection (i)(1) by inserting
14 “10,” after “7,”;

15 (H) in section 347—

16 (i) in subsection (a)—

17 (I) by inserting “1027,” after
18 “726,”; and

19 (II) by inserting “10,” after
20 “7,”; and

21 (ii) in subsection (b)—

22 (I) by inserting “10,” after “9,”;
23 and

24 (II) by inserting “1026,” after
25 “943(b),”;

1 (I) in section 348—

2 (i) in subsections (b), (c), and (e) by
3 inserting “1009,” after “706,” each place
4 it appears; and

5 (ii) in subsection (d) by inserting
6 “1009,” after “section”;

7 (J) in section 362(c)(2)(C) by inserting
8 “10,” after “9,”;

9 (K) in section 363—

10 (i) in subsection (c)(1) by inserting
11 “1006,” after “721,”; and

12 (ii) in subsection (l) by inserting
13 “10,” after “chapter”;

14 (L) in section 364(a) by inserting “1006,
15 1007,” after “721,”;

16 (M) in section 365—

17 (i) in subsections (d)(2) and (g) (1)
18 and (2) by inserting “10,” after “9,” each
19 place it appears; and

20 (ii) in subsection (g)(2) (A) and (B)
21 by inserting “1009,” after “section” each
22 place it appears;

23 (N) in section 502(g) by inserting “10,”
24 after “9,”;

1 (O) in section 523(a) by inserting
2 “1028(d),” after “727,”;

3 (P) in section 524—

4 (i) in subsections (a)(1), (c)(1), and
5 (d) by inserting “1028(d),” after “727,”
6 each place it appears; and

7 (ii) in subsection (a)(3) by inserting
8 “1028(d),” after “523,”;

9 (Q) in section 546(a)(1) by inserting
10 “1005,” after “702,”;

11 (R) in section 557(d)(3) by inserting
12 “1005,” after “703,”;

13 (S) in section 706—

14 (i) in subsection (a)—

15 (I) by inserting “10,” before
16 “11,”; and

17 (II) by inserting “1009,” after
18 “section”; and

19 (ii) in subsection (c) by striking “12
20 or 13” and inserting “10, 12, or 13”;

21 (T) in section 726(b) by inserting “1009,”
22 after “chapter under section”;

23 (U) in section 1106(a)(5) by inserting
24 “10,” after “7,”;

1 (V) in section 1306(a) (1) and (2) by in-
2 serting “10,” after “7,” each place it appears;
3 and

4 (W) in section 1307—

5 (i) in subsection (b) by inserting
6 “1009,” after “706,”;

7 (ii) in subsection (d) by striking “11
8 or 12” and inserting “10, 11, or 12”; and

9 (iii) in subsection (e) by inserting
10 “10,” after “7,”.

11 (3) BANKRUPTCY RULES.—The rules prescribed
12 under section 2075 of title 28, United States Code,
13 and in effect on the date of the enactment of this
14 Act shall apply to cases filed under chapter 10 of
15 title 11, United States Code, to the extent prac-
16 ticable and not inconsistent with the amendments
17 made by this Act.

18 (4) AMENDMENT OF TITLE 28, UNITED STATES
19 CODE.—Title 28, United States Code, is amended—

20 (A) in section 157(b)(2)(B) by inserting
21 “10,” after “chapter”;

22 (B) in section 586—

23 (i) in subsection (a)—

24 (I) in paragraph (1)(C)—

1 (aa) by striking “12 and
2 13” and inserting “10, 12, and
3 13”; and

4 (bb) by inserting “1025,
5 1029,” after “sections”; and

6 (II) in paragraph (3) in the mat-
7 ter preceding subparagraph (A), by
8 inserting “10,” after “7,”;

9 (C) in subsections (b), (d), and (e) by
10 striking “12 or 13” each place it appears and
11 inserting “10, 12, or 13”; and

12 (D) in section 1930(a)—

13 (i) by redesignating paragraphs (3),
14 (4), (5), and (6) as paragraphs (4), (5),
15 (6), and (7), respectively; and

16 (ii) by inserting after paragraph (2)
17 the following new paragraph:

18 “(3) For a case commenced under chapter 10
19 of title 11, \$600.”.

20 (5) AMENDMENT OF THE BANKRUPTCY,
21 JUDGES, UNITED STATES TRUSTEES, AND FAMILY
22 FARMER BANKRUPTCY ACT OF 1986.—Section 302 of
23 the Bankruptcy Judges, United States Trustees, and
24 Family Farmer Bankruptcy Act of 1986 (100 Stat.

1 3119) is amended in subsections (d) and (e) by in-
2 serting “10,” after “7,” each place it appears.

3 (e) APPLICATION OF CHAPTER 10 OF TITLE 11.—

4 (1) SELECTION OF DEMONSTRATION DIS-
5 TRICTS.—Not later than 90 days after the date of
6 enactment of this Act, the Director of the Adminis-
7 trative Office of the United States Courts shall—

8 (A) select 8 judicial districts in which
9 chapter 10 of title 11, United States Code, shall
10 be effective for a period of 3 years; and

11 (B) identify those districts by notice in the
12 Federal Register.

13 (2) EFFECTIVE PERIOD.—Chapter 10 of title
14 11, United States Code, shall become effective only
15 in the 8 judicial districts selected under paragraph
16 (1), beginning on the date that is 90 days after the
17 date of enactment of this Act and ending on the
18 date that is 3 years after that date.

19 (3) REPEAL.—(A) Chapter 10 of title 11, Unit-
20 ed States Code, is repealed on the date that is 3
21 years after the date that is 90 days after the date
22 of enactment of this Act. All cases commenced or
23 pending under that chapter and all matters and pro-
24 ceedings in or relating to those cases shall be con-
25 ducted and determined under that chapter as if the

1 chapter had not been repealed. The substantive
2 rights of parties in connection with those cases, mat-
3 ters, and proceedings as if the chapter had not been
4 repealed.

5 (B) The Committee on the Judiciary of the
6 Senate and the Committee on the Judiciary of the
7 House of Representatives shall prepare and report to
8 the Senate and the House of Representatives, re-
9 spectively, not later than 90 days before the repeal
10 date described in subparagraph (A), legislation pro-
11 posing such technical amendments as may be nec-
12 essary or appropriate at that time in view of the re-
13 peal made by subparagraph (A).

14 **SEC. 202. SINGLE ASSET REAL ESTATE.**

15 (a) DEFINITION.—Section 101 of title 11, United
16 States Code, is amended by inserting in its proper alpha-
17 betical position the following new definition:

18 “ ‘single asset real estate’ means real property
19 constituting a single property or project, other than
20 residential real property with fewer than 4 residen-
21 tial units, which generates substantially all of the
22 gross income of a debtor and on which no substan-
23 tial business is being conducted by a debtor other
24 than the business of operating the real property and
25 activities incidental thereto.”.

1 (b) AUTOMATIC STAY.—Section 362 of title 11, Unit-
2 ed States Code, is amended—

3 (1) in subsection (d)—

4 (A) in paragraph (1) by striking “or” at
5 the end;

6 (B) in paragraph (2) by striking the period
7 at the end and inserting “; or”; and

8 (C) by adding at the end the following new
9 paragraph:

10 “(3) with respect to a stay of an act against
11 single asset real estate under subsection (a), by a
12 creditor whose claim is secured by an interest in
13 such real estate, unless, not later than the date that
14 is 90 days after the entry of the order for relief (or
15 such later date as the court may determine for cause
16 by order entered within that 90-day period)—

17 “(A) the debtor has filed a plan of reorga-
18 nization that has a reasonable possibility of
19 being confirmed within a reasonable time; or

20 “(B) the debtor has commenced monthly
21 payments to each creditor whose claim is se-
22 cured by such real estate, which payments are
23 in an amount equal to interest at a current fair
24 market rate on the value of the creditor’s inter-
25 est in the real estate.”; and

1 (2) by adding at the end the following new sub-
2 section:

3 “(i)(1) Upon request of a creditor whose claim is se-
4 cured by an interest in single asset real estate, if the inter-
5 est has more than de minimis value, the court shall issue
6 an order granting limited relief from the stay provided
7 under subsection (a) to permit the creditor to continue a
8 foreclosure proceeding commenced before the commence-
9 ment of the case up to, but not including, the point of
10 sale.

11 “(2) An order under paragraph (1) shall not issue
12 before the date that is 30 days after the date of entry
13 of the order for relief, but thereafter shall issue promptly
14 after such a request.

15 “(3) A hearing shall not be required for the granting
16 of relief under paragraph (1) unless the debtor files an
17 objection to the request and shows the court extraordinary
18 circumstances requiring such a hearing.”.

19 **SEC. 203. AIRCRAFT EQUIPMENT, VESSELS, AND ROLLING**
20 **STOCK EQUIPMENT.**

21 (a) AMENDMENT OF SECTION 1110.—Section 1110
22 of title 11, United States Code, is amended to read as
23 follows:

1 **“§ 1110. Aircraft equipment and vessels**

2 “(a)(1) The right of a secured party with a security
3 interest in equipment described in paragraph (2) or of a
4 lessor or conditional vendor of such equipment to take pos-
5 session of such equipment in compliance with a security
6 agreement, lease, or conditional sale contract is not af-
7 fected by section 362 or 363 or by any power of the court
8 to enjoin the taking of possession unless—

9 “(A) before the date that is 60 days after the
10 date of the order for relief under this chapter, the
11 trustee, subject to the court’s approval, agrees to
12 perform all obligations of the debtor that become
13 due on or after the date of the order under such se-
14 curity agreement, lease, or conditional sale contract;
15 and

16 “(B) any default, other than a default of a kind
17 specified in section 365(b)(2), under such security
18 agreement, lease, or conditional sale contract—

19 “(i) that occurs before the date of the
20 order is cured before the expiration of such 60-
21 day period; and

22 “(ii) that occurs after the date of the order
23 is cured before the later of—

24 “(I) the date that is 30 days after the
25 date of the default; or

1 “(II) the expiration of such 60-day
2 period.

3 “(2) Equipment is described in this paragraph if it
4 is—

5 “(A) an aircraft, aircraft engine, propeller, ap-
6 pliance, or spare part (as defined in section 101 of
7 the Federal Aviation Act of 1958 (49 U.S.C. App.
8 1301)) that is subject to a security interest granted
9 by, leased to, or conditionally sold to a debtor that
10 is an air carrier (as defined in section 101 of the
11 Federal Aviation Act of 1958 (49 U.S.C. App.
12 1301)); or

13 “(B) a documented vessel (as defined in section
14 30101(1) of title 46, United States Code) that is
15 subject to a security interest granted by, leased to,
16 or conditionally sold to a debtor that is a water car-
17 rier that holds a certificate of public convenience
18 and necessity or permit issued by the Interstate
19 Commerce Commission.

20 “(3) Paragraph (1) applies to a secured party, lessor,
21 or conditional vendor acting in its own behalf or acting
22 as trustee or otherwise in behalf of another party.

23 “(b) The trustee and the secured party, lessor, or
24 conditional vendor whose right to take possession is pro-
25 tected under subsection (a) may agree, subject to the

1 court's approval, to extend the 60-day period specified in
2 subsection (a)(1).

3 “(c) If the trustee makes an agreement of the kind
4 described in subsection (a)(1)(A) with respect to a security
5 agreement, lease, or conditional sale contract, any costs
6 and expenses incurred by the secured party, lessor, or con-
7 ditional vendor to remedy the failure of the trustee to per-
8 form the obligations of the estate to maintain or return
9 equipment in accordance with the security agreement,
10 lease, or conditional sale contract constitute administra-
11 tive expenses under section 503(b)(1)(A).

12 “(d) With respect to equipment first placed in service
13 on or prior to the date of enactment of this subsection,
14 for purposes of this section—

15 “(1) the term ‘lease’ includes any written agree-
16 ment with respect to which the lessor and the debt-
17 or, as lessee, have expressed in the agreement or in
18 a substantially contemporaneous writing that the
19 agreement is to be treated as a lease for Federal in-
20 come tax purposes; and

21 “(2) the term ‘security interest’ means a pur-
22 chase-money equipment security interest.”.

23 (b) AMENDMENT OF SECTION 1168.—Section 1168
24 of title 11, United States Code, is amended to read as
25 follows:

1 **“§ 1168. Rolling stock equipment**

2 “(a)(1) The right of a secured party with a security
3 interest in or of a lessor or conditional vendor of equip-
4 ment described in paragraph (2) to take possession of such
5 equipment in compliance with an equipment security
6 agreement, lease, or conditional sale contract is not af-
7 fected by section 362 or 363 or by any power of the court
8 to enjoin the taking of possession, unless—

9 “(A) before the date that is 60 days after the
10 date of commencement of a case under this chapter,
11 the trustee, subject to the court’s approval, agrees to
12 perform all obligations of the debtor that become
13 due on or after the date of commencement of the
14 case under such security agreement, lease, or condi-
15 tional sale contract; and

16 “(B) any default, other than a default of a kind
17 described in section 365(b)(2), under such security
18 agreement, lease, or conditional sale contract—

19 “(i) that occurs before the date of com-
20 mencement of the case and is an event of de-
21 fault therewith is cured before the expiration of
22 such 60-day period; and

23 “(ii) that occurs or becomes an event of
24 default after the date of commencement of the
25 case is cured before the later of—

1 “(I) the date that is 30 days after the
2 date of the default or event of default; or

3 “(II) the expiration of such 60-day
4 period.

5 “(2) Equipment is described in this paragraph if it
6 is rolling stock equipment or accessories used on such
7 equipment, including superstructures and racks, that is
8 subject to a security interest granted by, leased to, or con-
9 ditionally sold to the debtor.

10 “(3) Paragraph (1) applies to a secured party, lessor,
11 or conditional vendor acting in its own behalf or acting
12 as trustee or otherwise in behalf of another party.

13 “(b) The trustee and the secured party, lessor, or
14 conditional vendor whose right to take possession is pro-
15 tected under subsection (a) may agree, subject to the
16 court’s approval, to extend the 60-day period specified in
17 subsection (a)(1).

18 “(c) If the trustee makes an agreement of the kind
19 described in subsection (a)(1)(A) with respect to a security
20 agreement, lease, or conditional sale contract, any costs
21 and expenses incurred by the secured party, lessor, or con-
22 ditional vendor to remedy the failure of the trustee to per-
23 form the obligations of the estate to maintain or return
24 equipment in accordance with the security agreement,

1 lease, or conditional sale contract constitute administra-
2 tive expenses under section 503(b)(1)(A).

3 “(d) With respect to equipment first placed in service
4 on or prior to the date of enactment of this subsection,
5 for purposes of this section—

6 “(1) the term ‘lease’ includes any written agree-
7 ment with respect to which the lessor and the debt-
8 or, as lessee, have expressed in the agreement or in
9 a substantially contemporaneous writing that the
10 agreement is to be treated as a lease for Federal in-
11 come tax purposes; and

12 “(2) the term ‘security interest’ means a pur-
13 chase-money equipment security interest.”.

14 (c) APPLICATION OF AMENDMENTS.—

15 (1) IN GENERAL.—The amendment of sections
16 1110(a) and 1168(a) of title 11, United States
17 Code, made by subsections (a) and (b) shall not
18 apply to cases commenced under title 11, United
19 States Code, prior to the date of enactment of this
20 Act.

21 (2) PLACEMENT IN SERVICE.—The amendment
22 of section 1168(a) of title 11, United States Code,
23 made by subsection (b) shall take effect with respect
24 to equipment that is first placed in service after the
25 date of enactment of this Act, including rolling stock

1 equipment that is substantially rebuilt after that
2 date and accessories used on such equipment.

3 **SEC. 204. UNEXPIRED LEASES OF PERSONAL PROPERTY IN**
4 **CHAPTER 11 CASES.**

5 Section 365 of title 11, United States Code, is
6 amended in the first sentence by inserting after “real
7 property” the following: “and, in a case under chapter 11,
8 under an unexpired lease of personal property”.

9 **SEC. 205. PROTECTION OF ASSIGNEES OF EXECUTORY CON-**
10 **TRACTS AND UNEXPIRED LEASES APPROVED**
11 **BY COURT ORDER IN CASES REVERSED ON**
12 **APPEAL.**

13 Section 365 of title 11, United States Code, is
14 amended by adding at the end the following new sub-
15 section:

16 “(p) The reversal or modification on appeal of an au-
17 thorization under this section of an assignment of an exec-
18 utory contract or unexpired lease does not affect the valid-
19 ity of the assignment to an entity that obtained the assign-
20 ment in good faith, whether or not the entity knew of the
21 pendency of the appeal, unless the authorization and the
22 assignment were stayed pending appeal.”.

1 **SEC. 206. PROTECTION OF SECURITY INTEREST IN POST-**
2 **PETITION RENTS.**

3 POSTPETITION EFFECT OF SECURITY INTEREST.—
4 Section 552(b) of title 11, United States Code, is amend-
5 ed—

6 (1) by inserting “(1)” after “(b)”;

7 (2) by striking “rents,” each place it appears;
8 and

9 (3) by adding at the end the following new
10 paragraph:

11 “(2)(A) Except as provided in sections 363, 506(c),
12 522, 544, 545, 547, and 548, if—

13 “(i) the debtor and an entity entered into a se-
14 curity agreement that was duly recorded in the pub-
15 lic records before the commencement of the case;
16 and

17 “(ii) the security interest created by the secu-
18 rity agreement extends to property of the debtor ac-
19 quired before the commencement of the case and to
20 rents or fees, charges, accounts or other payments
21 for the use or occupancy of rooms and other public
22 facilities in hotels, motels or other lodging properties
23 of such property and has been duly recorded in the
24 public record,

25 the security interest extends to the rents or fees, charges,
26 accounts, or other payments acquired by the estate after

1 the commencement of the case to the extent provided in
2 the security agreement, whether or not the security inter-
3 est in such rents, fees, charges, accounts or other pay-
4 ments is perfected under applicable nonbankruptcy law,
5 except to the extent that the court, after notice and a
6 hearing and based on the equities of the case, orders oth-
7 erwise.”.

8 “(B) If a security interest extends under subpara-
9 graph (A) to rents acquired by the estate after the com-
10 mencement of the case, the security interest in such rents
11 shall be deemed to be perfected for the purpose of section
12 544(a).”.

13 (b) USE SALE, OR LEASE OF PROPERTY.—Section
14 363(a) of title 11, United States Code, is amended by in-
15 serting: “and the fees, charges, accounts or other pay-
16 ments for the use or occupancy of rooms and other public
17 facilities in hotels, motels, or other lodging properties”
18 after “property”.

19 **SEC. 207. ANTI-ALIENATION.**

20 (a) AUTOMATIC STAY.—Section 362(b) of title 11,
21 United States Code, as amended by section 501(a), is
22 amended—

23 (1) by striking “or” at the end of paragraph
24 (16);

1 (2) by adding “or” at the end of paragraph
2 (17); and

3 (3) by adding at the end the following new
4 paragraph:

5 “(18) under subsection (a), of withholding of
6 income from a debtor’s wages and collection of
7 amounts withheld, pursuant to the debtor’s agree-
8 ment authorizing such withholding and collection for
9 the benefit of a pension, profit sharing, stock bonus,
10 or other plan qualified under section 401(a), 403(a),
11 403(b), or 408(k), or 457 or a governmental plan
12 under 414(d) of the Internal Revenue Code of 1986,
13 which is sponsored by the employer of the debtor, or
14 an affiliate, successor or predecessor of such em-
15 ployer, to the extent that the amounts withheld and
16 collected are used solely for payments relating to a
17 loan from the plan that satisfies the requirements of
18 section 404 of the Employee Retirement Income Se-
19 curity Act of 1974 (29 U.S.C. 1108(b)(1)) or, in the
20 case of a loan from the Thrift Savings Plan de-
21 scribed in subchapter III of title 5, United States
22 Code, that satisfies the requirements of section
23 8433(i) of that title.”.

24 (b) EXCEPTIONS TO DISCHARGE.—Subsection 523(a)
25 of title 11, United States Code, is amended—

1 (1) by striking “or” at the end of paragraph
2 (11);

3 (2) by striking the period at the end of para-
4 graph (12) and inserting “; or”; and

5 (3) by adding at the end the following new
6 paragraph:

7 “(13) owed to a pension, profitsharing, stock
8 bonus, or other plan qualified under section 401(a),
9 403(a), 403(b), 408(k) or a governmental plan
10 under 414(d) or 457 of the Internal Revenue Code
11 of 1986 pursuant to a loan permitted under section
12 404 of the Employee Retirement Income Security
13 Act of 1974 (29 U.S.C. 1108(b)(1)) or pursuant to
14 a loan from the Thrift Savings Plan described in
15 subchapter III of title 5, United States Code, that
16 satisfies the requirements of section 8433(i) of that
17 title.”.

18 (c) PROPERTY OF THE ESTATE.—Subsection 541(c)
19 of title 11, United States Code, is amended by adding at
20 the end the following new paragraph:

21 “(3)(A) Subject to subparagraph (B), assets
22 and benefits accumulated for the benefits of a debtor
23 pursuant to a pension, profitsharing, stock bonus, or
24 other plan qualified under section 401(a), 403(a),
25 403(b), or 408(k), or a governmental plan under

1 414(d), or 457 of the Internal Revenue Code of
2 1986 and any rights of debtor to such assets or ben-
3 efits shall be excluded from the property of the es-
4 tate.

5 “(B) Subparagraph (A) does not apply to plan
6 assets or benefits attributable to contributions of the
7 debtor to the extent that such contributions were in
8 excess of the applicable limits on such contributions
9 under section 401(k), 401(m), or 415 of the Internal
10 Revenue Code of 1986.”.

11 (d) PLAN CONTENTS.—Section 1322 of title 11,
12 United States Code, is amended by adding at the end the
13 following new subsection:

14 “(d) The plan may not materially alter the terms of
15 a loan described in section 362(b)(18).”.

16 (e) PLAN CONFIRMATION.—Section 1325 of title 11,
17 United States Code, is amended—

18 (1) in subsection (b)(2) by striking “debtor
19 and” and inserting “debtor (not including income
20 that is withheld from the debtor’s wages for the pur-
21 poses stated in section 362(b)(18)) and”; and

22 (2) in subsection (c) by striking “income to”
23 and inserting “income (except income that is with-
24 held from a debtor’s wages for the purposes stated

1 in section 362(b)(18) after confirmation of a plan)
2 to”.

3 **SEC. 208. EXEMPTION.**

4 Section 109(b)(2) of title 11, United States Code, is
5 amended by inserting after “homestead association” the
6 following: “a small business investment company licensed
7 by the Small Business Administration under section 301
8 (c) or (d) of the Small Business Investment Act of 1958
9 (15 U.S.C. 681 (c) and (d)),”.

10 **SEC. 209. INDENTURE TRUSTEE COMPENSATION.**

11 Section 503(b) of title 11, United States Code, is
12 amended—

13 (1) in paragraph (3)—

14 (A) by redesignating subparagraphs (D)
15 and (E) as subparagraphs (E) and (F), respec-
16 tively;

17 (B) by inserting after subparagraph (C)
18 the following new subparagraph;

19 “(D) an indenture trustee;”; and

20 (C) in subparagraph (E), as redesignated
21 by subparagraph (A), by striking “an indenture
22 trustee;”; and

23 (2) in paragraph (5) by striking “for services
24 rendered by an indenture trustee in making a sub-

1 stantial contribution in a case under chapter 9 or 11
2 of this title” and inserting “for necessary services”.

3 **SEC. 210. PAYMENT OF FEDERAL INTERNAL REVENUE**
4 **TAXES WITH BORROWED FUNDS.**

5 Section 523(a) of title 11, United States Code, is
6 amended—

7 (1) by striking “or” at the end of paragraph
8 (11);

9 (2) by adding “or” at the end of paragraph
10 (12); and

11 (3) by adding at the end the following new
12 paragraph:

13 “(13) incurred to obtain funds with which to
14 pay a tax imposed under the Internal Revenue Code
15 of 1986.”.

16 **SEC. 211. RETURN OF GOODS.**

17 (a) **LIMITATION ON AVOIDING POWERS.**—Section
18 546 of title 11, United States Code, is amended by adding
19 at the end the following new subsection:

20 “(h) Notwithstanding the rights and powers of a
21 trustee under sections 544(a), 545, 547, 549, and 553,
22 if the court determines, after notice and a hearing, that
23 a return is in the best interests of the estate, the debtor,
24 with the consent of a creditor, may return goods shipped
25 to the debtor by the creditor before the commencement

1 of the case, and the creditor may offset the value of such
 2 goods against any claim of the creditor against the debtor
 3 that arose before the commencement of the case.”.

4 (b) SETOFF.—Section 553(b)(1) is amended by in-
 5 serting “546(h),” after “365(h)(2),”.

6 **SEC. 212. EXCEPTION TO DISCHARGE.**

7 Section 523(a)(2) of title 11, United States Code, is
 8 amended by striking “forty” and inserting “60”.

9 **SEC. 213. PROCEEDS OF MONEY ORDER AGREEMENTS.**

10 Section 541(b) of title 11, United States Code, is
 11 amended—

12 (1) by striking “or” at the end of paragraph
 13 (2);

14 (2) by striking the period at the end of para-
 15 graph (3) and inserting “; or”; and

16 (3) by adding at the end the following new
 17 paragraph:

18 “(4) any interest in cash or cash equivalents
 19 that constitute proceeds of a sale by the debtor of
 20 a money order that is made—

21 “(A) on or after the date that is 14 days
 22 prior to the date on which the petition is filed;
 23 and

24 “(B) under an agreement with a money
 25 order issuer that prohibits the commingling of

1 such proceeds with property of the debtor (not-
 2 withstanding that, contrary to the agreement,
 3 the proceeds may have been commingled with
 4 property of the debtor),
 5 unless the money order issuer had not taken action,
 6 prior to the filing of the petition, to require compli-
 7 ance with the prohibition.”.

8 **SEC. 214. LIMITATION ON LIABILITY OF NONINSIDER**
 9 **TRANSFeree FOR AVOIDED TRANSFER.**

10 Section 550 of title 11, United States Code, is
 11 amended—

12 (1) by redesignating subsections (b), (c), (d),
 13 and (e) as subsections (c), (d), (e), and (f), respec-
 14 tively; and

15 (2) by inserting after subsection (a) the follow-
 16 ing new subsection:

17 “(b) The trustee may recover under subsection (a)
 18 a transfer avoided under section 547(b) from a first trans-
 19 feree or an immediate or mediate transferee of a first
 20 transferee only to the extent that—

21 “(1) all the elements of section 547(b) are sat-
 22 isfied as to the first transferee; and

23 “(2) the exceptions in section 547(c) do not
 24 protect the first transferee.”.

1 **SEC. 215. PERFECTION OF PURCHASE-MONEY SECURITY IN-**
2 **TEREST.**

3 Section 547(c)(3)(B) of title 11, United States Code,
4 is amended by striking “10” and inserting “20”.

5 **SEC. 216. AIRPORT GATE LEASES.**

6 Section 365(d) of title 11, United States Code, is
7 amended by adding at the end the following new para-
8 graph:

9 “(5)(A) Notwithstanding paragraphs (1), (2), and
10 (4), and subject to subparagraphs (B) and (C) of this
11 paragraph, if the trustee in a case under any chapter of
12 this title does not assume or reject an unexpired lease or
13 executory contract with an airport operator under which
14 the debtor has a right to the use or possession of an air-
15 port terminal, aircraft gate, or related facility within 60
16 days after the date of the order for relief, or within such
17 additional time (not to exceed 120 additional days) as the
18 court sets during such 60-day period, such lease or execu-
19 tory contract is deemed rejected, and the trustee shall im-
20 mediately surrender the airport terminal, gate, or related
21 facility to the airport operator.

22 “(B)(i) The court may enter an order extending be-
23 yond 180 days after the date of the order for relief the
24 time for assumption or rejection of an unexpired lease or
25 executory contract described in subparagraph (A) only
26 after finding that such an extension of time does not cause

1 substantial harm to the airport operator or to airline pas-
2 sengers.

3 “(ii) In making the determination of substantial
4 harm, the court shall consider, among other relevant fac-
5 tors—

6 “(I) the level of use of airport terminals, gates,
7 or related facilities subject to the unexpired lease or
8 executory contract;

9 “(II) the existence of competing demands for
10 the use of the airport terminals, gates, or related fa-
11 cilities;

12 “(III) the size and complexity of the case; and

13 “(IV) air carrier competition at the airport.

14 “(iii) The burden of proof for establishing cause for
15 an extension of time under this subparagraph shall be on
16 the trustee.

17 “(iv) An order entered under this subparagraph shall
18 be without prejudice to the right of a party in interest
19 to request, at any time, a shortening or termination of
20 the extension of time granted under this subparagraph.”.

21 **SEC. 217. TRUSTEE DUTIES.**

22 Section 586(a)(3)(A) of title 28, United States Code,
23 is amended to read as follows:

24 “(A)(i) reviewing, in accordance with pro-
25 cedural and substantive guidelines adopted by

1 the Executive Office of the United States
2 Trustee (which guidelines shall be applied uni-
3 formly by the United States trustee except
4 when circumstances warrant different treat-
5 ment), applications filed for compensation and
6 reimbursement under section 330 of title 11;
7 and

8 “(ii) filing with the court comments with
9 respect to each such an application and, if the
10 United States Trustee considers it to be appro-
11 priate, objections to such application.

12 **SEC. 218. PAYMENTS.**

13 Section 1326(a)(2) of title 11, United States Code,
14 is amended in the second sentence by striking the period
15 and inserting “as soon as practicable.”.

16 **SEC. 219. SELLER’S RIGHT TO RECLAIM GOODS.**

17 Section 546(c)(1) of title 11, United States Code, is
18 amended by striking “ten” and inserting “30”.

19 **SEC. 220. PAYMENT OF INSURANCE BENEFITS TO RETIRED**
20 **EMPLOYEES.**

21 Section 1114(e) of title 11, United States Code, is
22 amended by adding at the end the following new para-
23 graph:

24 “(3) Notwithstanding any other provision of
25 this title, if there are not sufficient unencumbered

1 assets available to make a timely payment required
2 by paragraph (1), an order approving the use, sale,
3 or lease of cash collateral or the obtaining of credit
4 or incurring of debt shall require the debtor to use
5 such cash collateral, credit, or incurring of debt to
6 make the payment.”.

7 **TITLE III—CONSUMER** 8 **BANKRUPTCY ISSUES**

9 **SEC. 301. PERIOD FOR CURING DEFAULT RELATING TO** 10 **PRINCIPAL RESIDENCE.**

11 Section 1322 of title 11, United States Code, as
12 amended by section 207(d), is amended—

13 (1) by redesignating subsections (c) and (d) as
14 subsections (d) and (e); and

15 (2) by inserting after subsection (b) the follow-
16 ing new subsection:

17 “(c) Notwithstanding State law and subsection
18 (b)(2), and whether or not a claim is matured or reduced
19 to judgment, a debtor who at the time of filing a petition
20 under this title possesses any legal or equitable interest,
21 including a right of redemption, in real property securing
22 a claim—

23 “(1) may cure a default and maintain payments
24 on the claim pursuant to subsection (b) (3) or (5);
25 or

1 “(2) in a case in which the last payment on the
 2 original payment schedule for the claim is due before
 3 the date on which the final payment under the plan
 4 is due, may provide for the payment of the claim
 5 pursuant to section 1325(a)(5).”.

6 **SEC. 302. NONDISCHARGEABILITY OF FINE UNDER CHAP-**
 7 **TER 13.**

8 Section 1328(a)(3) of title 11, United States Code,
 9 is amended by inserting “, or a fine to the extent such
 10 fine exceeds \$500, ” after “restitution”.

11 **SEC. 303. PROTECTION OF CHILD SUPPORT AND ALIMONY.**

12 (a) RELIEF FROM AUTOMATIC STAY.—Section
 13 362(b)(2) of title 11, United States Code, is amended to
 14 read as follows:

15 “(2) under subsection (a) of this section—

16 “(A) of the commencement or continuation
 17 of an action or proceeding for—

18 “(i) the establishment of paternity; or

19 “(ii) the establishment or modification
 20 of an order for alimony, maintenance, or
 21 support; or

22 “(B) of the collection of alimony, mainte-
 23 nance, or support from property that is not
 24 property of the estate;”.

25 (b) PRIORITY OF CLAIMS.—

1 (1) ALIMONY OR SUPPORT.—Section 507(a) of
2 title 11, United States Code, is amended—

3 (A) in paragraph (8) by striking “(8)
4 Eighth” and inserting “(9) Ninth”;

5 (B) in paragraph (7) by striking “(7) Sev-
6 enth” and inserting “(8) Eighth”; and

7 (C) by inserting after paragraph (6) the
8 following new paragraph:

9 “(7) Eighth, allowed claims for debts to a
10 spouse, former spouse, or child of the debtor, for ali-
11 mony to, maintenance for, or support of such spouse
12 or child, in connection with a separation agreement,
13 divorce decree or other order of a court of record,
14 determination made in accordance with State or ter-
15 ritorial law by a governmental unit, or property set-
16 tlement agreement, but not to the extent that such
17 debt—

18 “(A) is assigned to another entity, volun-
19 tarily, by operation of law, or otherwise; or

20 “(B) includes a liability designated as ali-
21 mony, maintenance, or support, unless such li-
22 ability is actually in the nature of alimony,
23 maintenance or support.”.

24 (2) TECHNICAL AMENDMENTS.—Title 11, Unit-
25 ed States Code, is amended—

1 (A) in section 502(i) by striking
2 “507(a)(7)” and inserting “507(a)(8)”;

3 (B) in section 503(b)(1)(B)(i) by striking
4 “507(a)(7)” and inserting “507(a)(8)”;

5 (C) in section 523(a)(1)(A) by striking
6 “507(a)(7)” and inserting “507(a)(8)”;

7 (D) in section 724(b)(2) by striking “or
8 507(a)(6)” and inserting “507(a)(6), or
9 507(a)(7)”;

10 (E) in section 726(b) by striking “or (7)”
11 and inserting “, (7), or (8)”;

12 (F) in section 1123(a)(1) by striking
13 “507(a)(7)” and inserting “507(a)(8)”;

14 (G) in section 1129(a)(9)—

15 (i) in subparagraph (B) by striking
16 “or 507(a)(6)” and inserting “, 507(a)(6),
17 or 507(a)(7)”;

18 (ii) in subparagraph (C) by striking
19 “507(a)(7)” and inserting “507(a)(8)”.

20 (c) PROTECTION OF LIENS.—Section 522(f)(1) of
21 title 11, United States Code, is amended to read as fol-
22 lows:

23 “(1) a judicial lien (other than a judicial lien
24 that secures a debt to a spouse, former spouse, or
25 child of the debtor, for alimony to, maintenance for,

1 or support of the spouse or child, in connection with
 2 a separation agreement, divorce decree or other
 3 order of a court of record, determination made in
 4 accordance with State or territorial law by a govern-
 5 mental unit, or property settlement agreement, to
 6 the extent that the debt—

7 “(A) is not assigned to another entity, vol-
 8 untarily, by operation of law, or otherwise; and

9 “(B) includes a liability designated as ali-
 10 mony, maintenance, or support, unless such li-
 11 ability is actually in the nature of alimony,
 12 maintenance or support).”.

13 (d) PROTECTION AGAINST TRUSTEE AVOIDANCE.—

14 Section 547(c) of title 11, United States Code, is amend-
 15 ed—

16 (1) by striking “or” at the end of para-
 17 graph (6);

18 (2) by redesignating paragraph (7) as
 19 paragraph (8); and

20 (3) by inserting after paragraph (6) the
 21 following new paragraph:

22 “(7) to the extent that the transfer was a bona
 23 fide payment of a debt to a spouse, former spouse,
 24 or child of the debtor, for alimony to, maintenance
 25 for, or support of such spouse or child, in connection

1 with a separation agreement, divorce decree or other
 2 order of a court of record, determination made in
 3 accordance with State or territorial law by a govern-
 4 mental unit, or property settlement agreement, but
 5 not to the extent that such debt—

6 “(A) is assigned to another entity, volun-
 7 tarily, by operation of law, or otherwise; or

8 “(B) includes a liability designated as ali-
 9 mony, maintenance, or support, unless such li-
 10 ability is actually in the nature of alimony,
 11 maintenance or support; or”.

12 (e) APPEARANCE BEFORE COURT.—A child support
 13 creditor or its representative shall be permitted to appear
 14 and intervene without charge and without meeting any
 15 special local court rule requirement for attorney appear-
 16 ances in any bankruptcy proceeding in any bankruptcy
 17 court or district court of the United States if the creditor
 18 or representative files with the court a statement describ-
 19 ing in detail the child support debt, its status, and other
 20 characteristics.

21 **SEC. 304. BANKRUPTCY PETITION PREPARERS.**

22 (a) AMENDMENT OF CHAPTER 1.—

23 (1) IN GENERAL.—Chapter 1 of title 11, United
 24 States Code, is amended by adding at the end the
 25 following new section:

1 **“SEC. 110. PENALTY FOR PERSONS WHO NEGLIGENTLY OR**
2 **FRAUDULENTLY PREPARE BANKRUPTCY PE-**
3 **TITIONS.**

4 “(a) DEFINITION.—In this section—

5 “‘bankruptcy petition preparer’ means a per-
6 son, other than an attorney or an employee of an at-
7 torney, who prepares for compensation a document
8 for filing.

9 “‘document for filing’ means a petition or any
10 other document prepared for filing by a debtor in a
11 United States bankruptcy court or a United States
12 district court in connection with a case under this
13 title.

14 “(b) SIGNING OF DOCUMENTS.—(1) A bankruptcy
15 petition preparer who prepares a document for filing shall
16 sign the document and print on the document the prepar-
17 er’s name and address.

18 “(2) A bankruptcy petition preparer who fails to com-
19 ply with paragraph (1) may be fined not more than \$500
20 for each such failure unless the failure is due to reasonable
21 cause.

22 “(c) FURNISHING OF IDENTIFYING NUMBER.—(1) A
23 bankruptcy petition preparer who prepares a document for
24 filing shall place on the document, after the preparer’s sig-
25 nature, an identifying number that identifies the individ-
26 uals who prepared the document.

1 “(2) For purposes of this section, the identifying
2 number of a bankruptcy petition preparer shall be the So-
3 cial Security account number of each individual who pre-
4 pared the document or assisted in its preparation.

5 “(3) A bankruptcy petition preparer who fails to com-
6 ply with paragraph (1) may be fined not more than \$500
7 for each such failure unless the failure is due to reasonable
8 cause.

9 “(d) FURNISHING OF COPY TO THE DEBTOR.—(1)
10 A bankruptcy petition preparer shall, not later than the
11 time at which a document for filing is presented for the
12 debtor’s signature, furnish to the debtor a copy of the doc-
13 ument.

14 “(2) A bankruptcy petition preparer who fails to com-
15 ply with paragraph (1) may be fined not more than \$500
16 for each such failure unless the failure is due to reasonable
17 cause.

18 “(e) AUTHORIZATION TO EXECUTE DOCUMENTS.—
19 (1) A bankruptcy petition preparer shall not execute any
20 document on behalf of a debtor unless—

21 “(A) the debtor has first given the preparer
22 written authorization to execute the document; and

23 “(B) the preparer is otherwise authorized by
24 law to execute the document.

1 “(2) A bankruptcy petition preparer may be fined not
2 more than \$500 for each document executed in violation
3 of paragraph (1).

4 “(f) DAMAGES.—If a bankruptcy case or related pro-
5 ceeding is dismissed because of the negligence or inten-
6 tional disregard of this title or the bankruptcy rules by
7 a bankruptcy petition preparer, or if a bankruptcy petition
8 preparer violates this section or commits any fraudulent,
9 unfair, or deceptive act, the bankruptcy court shall certify
10 that fact to the district court, and the district court, on
11 motion of the debtor and after a hearing, shall order the
12 bankruptcy petition preparer to pay to the debtor—

13 “(1) the debtor’s actual damages;

14 “(2) the greater of—

15 “(A) \$2,000; or

16 “(B) twice the amount paid by the debtor
17 to the bankruptcy petition preparer for the pre-
18 parer’s services; and

19 “(3) reasonable attorneys’ fees and costs in
20 moving for damages under this subsection.

21 “(g) INJUNCTIVE RELIEF.—

22 “(1) IN GENERAL.—A debtor for whom a bank-
23 ruptcy petition preparer has prepared as document
24 for filing, the United States trustee in the district in
25 which the bankruptcy petition preparer resides or

1 has a principal place of business, or the United
2 States trustee in the district in which the debtor re-
3 sides may bring a civil action to enjoin a bankruptcy
4 petition preparer from engaging in any conduct in
5 violation of this section or from further acting as a
6 bankruptcy petition preparer.

7 “(2) CONDUCT.—(A) In an action under para-
8 graph (1), if the court finds that—

9 “(i) a bankruptcy petition preparer has—

10 “(I) engaged in conduct in violation of
11 this section or of any provision of this title
12 a violation of which subjects a person to
13 criminal penalty;

14 “(II) misrepresented the preparer’s
15 experience or education as a bankruptcy
16 petition preparer; or

17 “(III) engaged in any other fraudu-
18 lent, unfair, or deceptive conduct; and

19 “(ii) injunctive relief is appropriate to pre-
20 vent the recurrence of such conduct,

21 the court may enjoin the bankruptcy petition pre-
22 parer from engaging in such conduct.

23 “(B) If the court finds that a bankruptcy peti-
24 tion preparer has continually engaged in conduct de-
25 scribed in clause (i) (I), (II), or (III) and that an

1 injunction prohibiting such conduct would not be
 2 sufficient to prevent such person's interference with
 3 the proper administration of this title, or has not
 4 paid a penalty imposed under this section, the court
 5 may enjoin the person from acting as a bankruptcy
 6 petition preparer.

7 “(3) ATTORNEY’S FEE.—The court shall award
 8 to a debtor who brings a successful action under this
 9 subsection reasonable attorney’s fees and costs of
 10 the action.

11 “(h) UNAUTHORIZED PRACTICE OF LAW.—Nothing
 12 in this section shall be construed to permit activities that
 13 are otherwise prohibited by law, including rules and laws
 14 that prohibit the unauthorized practice of law.”.

15 (2) TECHNICAL AMENDMENT.—The chapter
 16 analysis for chapter 1 of title 11, United states
 17 Code, is amended by adding at the end the following
 18 new item:

“110. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.”.

19 (b) AMENDMENT OF TITLE 18, UNITED STATES
 20 CODE.—

21 (1) OFFENSES.—Chapter 9 of title 18, United
 22 States Code, is amended—

23 (A) by amending sections 152, 153, and
 24 154 to read as follows:

1 **“§ 152. Concealment of assets; false oaths and claims;**
2 **bribery**

3 “A person who—

4 “(1) knowingly and fraudulently conceals from
5 a custodian, trustee, marshal, or other officer of the
6 court charged with the control or custody of prop-
7 erty, or, in connection with a case under title 11,
8 from creditors or the United States Trustee, any
9 property belonging to the estate of a debtor;

10 “(2) knowingly and fraudulently makes a false
11 oath or account in or in relation to any case under
12 title 11;

13 “(3) knowingly and fraudulently makes a false
14 declaration, certificate, verification, or statement
15 under penalty of perjury as permitted under section
16 1746 of title 28, in or in relation to any case under
17 title 11;

18 “(4) knowingly and fraudulently presents any
19 false claim for proof against the estate of a debtor,
20 or uses any such claim in any case under title 11,
21 in a personal capacity or as or through an agent,
22 proxy, or attorney;

23 “(5) knowingly and fraudulently receives any
24 material amount of property from a debtor after the
25 filing of a case under title 11, with intent to defeat
26 the provisions of title 11;

1 “(6) knowingly and fraudulently gives, offers,
2 receives, or attempts to obtain any money or prop-
3 erty, remuneration, compensation, reward, advan-
4 tage, or promise thereof for acting or forbearing to
5 act in any case under title 11;

6 “(7) in a personal capacity or as an agent or
7 officer of any person or corporation, in contempla-
8 tion of a case under title 11 by or against the person
9 or any other person or corporation, or with intent to
10 defeat the provisions of title 11, knowingly and
11 fraudulently transfers or conceals any of his prop-
12 erty or the property of such other person or corpora-
13 tion;

14 “(8) after the filing of a case under title 11 or
15 in contemplation thereof, knowingly and fraudulently
16 conceals, destroys, mutilates, falsifies, or makes a
17 false entry in any recorded information (including
18 books, documents, records, and papers) relating to
19 the property or financial affairs of a debtor; or

20 “(9) after the filing of a case under title 11,
21 knowingly and fraudulently withholds from a custo-
22 dian, trustee, marshal, or other officer of the court
23 or a United States Trustee entitled to its possession,
24 any recorded information (including books, docu-

1 ments, records, and papers) relating to the property
2 or financial affairs of a debtor,
3 shall be fined not more than \$5,000, imprisoned not more
4 than 5 years, or both.

5 **“§ 153. Embezzlement against estate**

6 “(a) OFFENSE.—A person described in subsection (b)
7 who knowingly and fraudulently appropriates to the per-
8 son’s own use, embezzles, spends, or transfers any prop-
9 erty or secretes or destroys any document belonging to the
10 estate of a debtor shall be fined not more than \$5,000,
11 imprisoned not more than 5 years, or both.

12 “(b) PERSON TO WHOM SECTION APPLIES.—A per-
13 son described in this subsection is one who has access to
14 property or documents belonging to an estate by virtue
15 of the person’s participation in the administration of the
16 estate as a trustee, custodian, marshal, attorney, or other
17 officer of the court or as an agent, employee, or other per-
18 son engaged by such an officer to perform a service with
19 respect to the estate.

20 **“§ 154. Adverse interest and conduct of officers**

21 “A person who, being a custodian, trustee, marshal,
22 or other officer of the court—

23 “(1) knowingly purchases, directly or indirectly,
24 any property of the estate of which the person is
25 such an officer in a case under title 11;

1 “(2) knowingly refuses to permit a reasonable
 2 opportunity for the inspection by parties in interest
 3 of the documents and accounts relating to the af-
 4 fairs of estates in the person’s charge by parties
 5 when directed by the court to do so; or

6 “(3) knowingly refuses to permit a reasonable
 7 opportunity for the inspection by the United States
 8 Trustee of the documents and accounts relating to
 9 the affairs of states in the person’s charge,
 10 shall be fined not more than \$5000 and shall forfeit the
 11 person’s office, which shall thereupon become vacant.”;
 12 and

13 (B) by adding at the end the following new
 14 section:

15 **“§ 156. Willful disregard of bankruptcy law or rule**

16 “(a) DEFINITIONS.—In this section—

17 “‘bankruptcy petition preparer’ means a per-
 18 son, other than an attorney or an employee of an at-
 19 torney, who prepares for compensation a document
 20 for filing.

21 “‘document for filing’ means a petition or any
 22 other document prepared for filing by a debtor in a
 23 United States bankruptcy court or a United States
 24 district court in connection with a case under this
 25 title.

1 “(b) OFFENSE.—If a bankruptcy case or related pro-
 2 ceeding is dismissed because of a willful attempt by a
 3 bankruptcy petition preparer in any manner to disregard
 4 the requirements of title 11, United States Code, or the
 5 Bankruptcy Rules, the bankruptcy petition preparer shall
 6 be fined \$5,000.”.

7 (2) TECHNICAL AMENDMENTS.—The chapter
 8 analysis for chapter 9 of title 18, United States
 9 Code, is amended—

10 (A) by amending the item relating to sec-
 11 tion 153 to read as follows:

“Sec. 153. Embezzlement against estate.”;

12 and

13 (B) by adding at the end the following new
 14 item:

“Sec. 156. Willful disregard of bankruptcy law or rule.”.

15 **SEC. 305. CONVERSION OR DISMISSAL.**

16 Section 1307 of title 11, United States Code, is
 17 amended by adding at the end the following new sub-
 18 section:

19 “(g) The clerk of the court shall give notice to all
 20 creditors not later than 30 days after the entry of an order
 21 of conversion or dismissal.”.

22 **SEC. 306. CONTENTS OF PLAN.**

23 Section 1322(b)(2) of title 11, United States Code,
 24 is amended by striking “claims;” and inserting “claims,

1 but the plan may not modify a claim pursuant to section
2 506 of a person holding a primary or a junior security
3 interest in real property or a manufactured home (as de-
4 fined in section 603(6) of the National Manufactured
5 Housing Construction and Safety Standards Act of 1974
6 (42 U.S.C. 5402(6)) that is the debtor's principal resi-
7 dence, except that the plan may modify the claim of a per-
8 son holding such a junior security interest that was
9 undersecured at the time the interest attached to the ex-
10 tent that the interest remains undersecured;”.

11 **SEC. 307. STAY OF ACTION AGAINST CODEBTOR.**

12 Section 1301 of title 11, United States Code, is
13 amended—

14 (1) in subsection (c)—

15 (A) by striking “or” at the end of para-
16 graph (2);

17 (B) by striking the period at the end of
18 paragraph (3) and inserting “; or”; and

19 (C) by adding at the end the following new
20 paragraph:

21 “(4) the claim is for an amount valued at not
22 greater than \$25,000, and such relief is not a sub-
23 stantial impediment to an effective reorganization by
24 the debtor, and unless the codebtor has dem-

1 onstrated an inability to pay such claim or a sub-
2 stantial portion of such claim.”; and

3 (2) by adding at the end the following new sub-
4 section:

5 “(e) If the relief sought by the creditor pursuant to
6 subsection (c)(4) is granted by the court, the codebtor
7 shall by subrogation have the same rights as the creditor,
8 under this title, against the debtor to the extent of the
9 amount of relief obtained from the codebtor. Pending any
10 delay in obtaining relief from the codebtor, after the court
11 order, payment by the debtor shall continue to be paid
12 to the creditor, but subject to the developing subrogation
13 rights of the codebtor.”.

14 **SEC. 308. EXEMPTION FOR HOUSEHOLD GOODS.**

15 Section 522(a) of title 11, United States Code, is
16 amended—

17 (1) by striking “and” at the end of paragraph

18 (1) and redesignating that paragraph as paragraph

19 (2);

20 (2) by inserting before paragraph (2), as redes-
21 ignated by paragraph (1), the following new para-
22 graph:

23 “(1) ‘antique’, for purposes of subsection (d),
24 means an item that was more than 100 years old at
25 the time it was acquired by the debtor, including

1 such an item that has been repaired or renovated
2 without changing its original form or character;”;

3 (3) by redesignating paragraph (2), as des-
4 ignated prior to the date of enactment of this Act,
5 as paragraph (4); and

6 (4) by inserting after paragraph (2), as redesign-
7 ated by paragraph (1), the following new para-
8 graph:

9 “(3) ‘household goods’, for purposes of sub-
10 section (d), means clothing, furniture, appliances,
11 linens, china, crockery, kitchenware, and personal ef-
12 fects of the debtor and the debtor’s dependents, but
13 does not include—

14 “(A) works of art;

15 “(B) electronic entertainment equipment
16 (except to the extent of 1 television and 1
17 radio);

18 “(C) antiques; and

19 “(D) jewelry other than wedding rings.”.

20 **SEC. 309. PROFESSIONAL FEES.**

21 Section 330(a) of title 11, United States Code, is
22 amended to read as follows:

23 “(a)(1) After notice to the parties in interest and the
24 United States trustee and a hearing, and subject to sec-
25 tions 326, 328, and 329, the court may award to a trustee,

1 an examiner, a professional person employed under section
2 327 or 1103, or the debtor's attorney, after considering
3 comments and objections submitted by the United States
4 Trustee in conformance with guidelines adopted by the
5 Executive Office for United States Trustees pursuant to
6 section 586(a)(3)(A) of title 28—

7 “(A) reasonable compensation for actual, nec-
8 essary services rendered by the trustee, examiner,
9 professional person, or attorney and by any para-
10 professional person employed by any such person;
11 and

12 “(B) reimbursement for actual, necessary ex-
13 penses.

14 “(2)(A) In determining an amount of reasonable
15 compensation to be awarded under paragraph (1)(A), the
16 court—

17 “(i) may, on its motion or on the motion of the
18 United States trustee or any party in interest, award
19 compensation that is less than the amount of com-
20 pensation that is requested; and

21 “(ii) shall consider the nature, the extent, and
22 the value of such services, taking into account all
23 relevant factors, including—

24 “(I) the time spent on such services;

25 “(II) the rates charged for such services;

1 “(III) whether the services were necessary
2 in the administration of or beneficial toward the
3 completion of a case under this title; and

4 “(IV) the total value of the estate and the
5 amount of funds or other property available for
6 distribution to all creditors both secured and
7 unsecured.

8 “(B) In calculating compensation for services for the
9 purpose of subparagraph (A)(ii), the court shall con-
10 sider—

11 “(i) whether tasks were performed within a rea-
12 sonable amount of time commensurate with the com-
13 plexity, importance and nature of the problem, issue
14 or task addressed; and

15 “(ii) whether the compensation is reasonable
16 based on the customary compensation charged by
17 comparably skilled practitioners in nonbankruptcy
18 cases.

19 “(3) The court shall not allow compensation for du-
20 plication of services or for services that are not either rea-
21 sonably likely to benefit the debtor’s estate or necessary
22 in the administration of the case.

23 “(4)(A) The court shall take into account the amount
24 and timing of interim compensation, if any awarded and
25 paid, in awarding final compensation.

1 “(B) If interim compensation was awarded and paid
 2 in an amount that exceeds the amount the court awards
 3 as final compensation the court may order the return of
 4 the excess to the trustee or other entity that paid it.

5 “(5) In determining the amount to be awarded for
 6 the preparation of fee applications, the court shall recog-
 7 nize the difference between the cost of professional serv-
 8 ices and services for the preparation of fee applications.
 9 The costs awarded for the preparation of fee applications
 10 shall be reasonable and based on the level of skill re-
 11 quired.”.

12 **TITLE IV—BANKRUPTCY REVIEW** 13 **COMMISSION**

14 **SEC. 401. SHORT TITLE.**

15 This title may be cited as the “National Bankruptcy
 16 Review Commission Act”.

17 **SEC. 402. ESTABLISHMENT.**

18 There is established the National Bankruptcy Review
 19 Commission (referred to as the “Commission”).

20 **SEC. 403. DUTIES OF THE COMMISSION.**

21 The duties of the Commission are—

22 (1) to investigate and study issues and prob-
 23 lems relating to title 11, United States Code (com-
 24 monly known as the “Bankruptcy Code”);

1 (2) to evaluate the advisability of proposals and
2 current arrangements with respect to such issues
3 and problems;

4 (3) to prepare and submit to the Congress, the
5 Chief Justice, and the President a report in accord-
6 ance with section 408; and

7 (4) to solicit divergent views of all parties con-
8 cerned with the operation of the bankruptcy system.

9 **SEC. 404. MEMBERSHIP.**

10 (a) NUMBER AND APPOINTMENT.—The Commission
11 shall be composed of 9 members as follows:

12 (1) Three members appointed by the President,
13 1 of whom shall be designated as chairman by the
14 President.

15 (2) One member shall be appointed by the
16 President pro tempore of the Senate.

17 (3) One member shall be appointed by the Mi-
18 nority Leader of the Senate.

19 (4) One member shall be appointed by the
20 Speaker of the House of Representatives.

21 (5) One member shall be appointed by the Mi-
22 nority Leader of the House of Representatives.

23 (6) Two members appointed by the Chief Jus-
24 tice.

1 (b) TERM.—Members of the Commission shall be ap-
2 pointed for the life of the Commission.

3 (c) QUORUM.—Five members of the Commission
4 shall constitute a quorum, but a lesser number may con-
5 duct meetings.

6 (d) APPOINTMENT DEADLINE.—The first appoint-
7 ments made under subsection (a) shall be made within 60
8 days after the date of enactment of this Act.

9 (e) FIRST MEETING.—The first meeting of the Com-
10 mission shall be called by the chairman and shall be held
11 within 90 days after the date of enactment of this Act.

12 (f) VACANCY.—A vacancy on the Commission result-
13 ing from the death or resignation of a member shall not
14 affect its powers and shall be filled in the same manner
15 in which the original appointment was made.

16 (g) CONTINUATION OF MEMBERSHIP.—If any mem-
17 ber of the Commission who was appointed to the Commis-
18 sion as a member of Congress or as an officer or employee
19 of a government leaves that office, or if any member of
20 the Commission who was not appointed in such a capacity
21 becomes an officer or employee of a government, the mem-
22 ber may continue as a member of the Commission for not
23 longer than the 90-day period beginning on the date the
24 member leaves that office or becomes such an officer or
25 employee, as the case may be.

1 (h) CONSULTATION PRIOR TO APPOINTMENT.—Prior
2 to the appointment of members of the Commission, the
3 President, the President pro tempore of the Senate, the
4 Speaker of the House of Representatives, and the Chief
5 Justice shall consult with each other to ensure fair and
6 equitable representation of various points of view in the
7 Commission and its staff.

8 **SEC. 405. COMPENSATION OF THE COMMISSION.**

9 (a) PAY.—

10 (1) NONGOVERNMENT EMPLOYEES.—Each
11 member of the Commission who is not otherwise em-
12 ployed by the United States Government shall be en-
13 titled to receive the daily equivalent of the annual
14 rate of basic pay payable for level IV of the Execu-
15 tive Schedule under section 5315 of title 5, United
16 States Code, for each day (including travel time)
17 during which he or she is engaged in the actual per-
18 formance of duties as a member of the Commission.

19 (2) GOVERNMENT EMPLOYEES.—A member of
20 the Commission who is an officer or employee of the
21 United States Government shall serve without addi-
22 tional compensation.

23 (b) TRAVEL.—Members of the Commission shall be
24 reimbursed for travel, subsistence, and other necessary ex-

1 penses incurred by them in the performance of their du-
2 ties.

3 **SEC. 406. STAFF OF COMMISSION; EXPERTS AND CONSULT-**
4 **ANTS.**

5 (a) STAFF.—

6 (1) APPOINTMENT.—The chairman of the Com-
7 mission may, without regard to the civil service laws
8 and regulations, appoint, and terminate an executive
9 director and such other personnel as are necessary
10 to enable the Commission to perform its duties. The
11 employment of an executive director shall be subject
12 to confirmation by the Commission.

13 (2) COMPENSATION.—The chairman of the
14 Commission may fix the compensation of the execu-
15 tive director and other personnel without regard to
16 the provisions of chapter 51 and subchapter II of
17 chapter 53 of title 5, United States Code, relating
18 to classification of positions and General Schedule
19 pay rates, except that the rate of pay for the execu-
20 tive director and other personnel may not exceed the
21 rate payable for level V of the Executive Schedule
22 under section 5316 of that title.

23 (b) EXPERTS AND CONSULTANTS.—The Commission
24 may procure temporary and intermittent services of ex-

1 perts and consultants under section 3109(b) of title 5,
2 United States Code.

3 **SEC. 407. POWERS OF THE COMMISSION.**

4 (a) HEARINGS AND MEETINGS.—The Commission or,
5 on authorization of the Commission, a member of the
6 Commission, may hold such hearings, sit and act at such
7 time and places, take such testimony, and receive such evi-
8 dence, as the Commission considers appropriate. The
9 Commission or a member of the Commission may admin-
10 ister oaths or affirmations to witnesses appearing before
11 it.

12 (b) OFFICIAL DATA.—The Commission may secure
13 directly from any Federal department, agency, or court
14 information necessary to enable it to carry out this title.
15 Upon request of the chairman of the Commission, the
16 head of a Federal department or agency or chief judge
17 of a Federal court shall furnish such information, consist-
18 ent with law, to the Commission.

19 (c) FACILITIES AND SUPPORT SERVICES.—The Ad-
20 ministrator of General Services shall provide to the Com-
21 mission on a reimbursable basis such facilities and support
22 services as the Commission may request. Upon request of
23 the Commission, the head of a Federal department or
24 agency may make any of the facilities or services of the

1 agency available to the Commission to assist the Commis-
2 sion in carrying out its duties under this title.

3 (d) EXPENDITURES AND CONTRACTS.—The Commis-
4 sion or, on authorization of the Commission, a member
5 of the Commission may make expenditures and enter into
6 contracts for the procurement of such supplies, services,
7 and property as the Commission or member considers ap-
8 propriate for the purposes of carrying out the duties of
9 the Commission. Such expenditures and contracts may be
10 made only to such extent or in such amounts as are pro-
11 vided in appropriation Acts.

12 (e) MAILS.—The Commission may use the United
13 States mails in the same manner and under the same con-
14 ditions as other Federal departments and agencies of the
15 United States.

16 (f) GIFTS.—The Commission may accept, use, and
17 dispose of gifts or donations of services or property.

18 **SEC. 408. REPORT.**

19 The Commission shall submit to the Congress, the
20 Chief Justice, and the President a report not later than
21 2 years after the date of its first meeting. The report shall
22 contain a detailed statement of the findings and conclu-
23 sions of the Commission, together with its recommenda-
24 tions for such legislative or administrative action as it con-
25 siders appropriate.

1 **SEC. 409. TERMINATION.**

2 The Commission shall cease to exist on the date that
3 is 30 days after the date on which it submits its report
4 under section 408.

5 **SEC. 410. AUTHORIZATION OF APPROPRIATIONS.**

6 There is authorized to be appropriated \$1,500,000 to
7 carry out this title.

8 **TITLE V—TECHNICAL**
9 **CORRECTIONS**

10 **SEC. 501. TITLE 11, UNITED STATES CODE.**

11 (a) ALPHABETIZATION AND ELIMINATION OF PARA-
12 GRAPH DESIGNATIONS.—Section 101 of title 11, United
13 States Code, is amended to read as follows:

14 **“§ 101. Definitions**

15 “In this title—

16 “‘accountant’ means an accountant authorized
17 under applicable law to practice public accounting,
18 and includes professional accounting association,
19 corporation, or partnership, if so authorized.

20 “‘affiliate’ means—

21 “(A) an entity that directly or indirectly
22 owns, controls, or holds with power to vote, 20
23 percent or more of the outstanding voting secu-
24 rities of the debtor, other than an entity that
25 holds such securities—

1 “(i) in a fiduciary or agency capacity
2 without sole discretionary power to vote
3 such securities; or

4 “(ii) solely to secure a debt, if such
5 entity has not in fact exercised such power
6 to vote;

7 “(B) a corporation 20 percent or more of
8 whose outstanding voting securities are directly
9 or indirectly owned, controlled, or held with
10 power to vote, by the debtor, or by an entity
11 that directly or indirectly owns, controls, or
12 holds with power to vote, 20 percent or more of
13 the outstanding voting securities of the debtor,
14 other than an entity that holds such securi-
15 ties—

16 “(i) in a fiduciary or agency capacity
17 without sole discretionary power to vote
18 such securities; or

19 “(ii) solely to secure a debt, if such
20 entity has not in fact exercised such power
21 to vote;

22 “(C) a person whose business is operated
23 under a lease or operating agreement by a debt-
24 or, or person substantially all of whose property

1 is operated under an operating agreement with
2 the debtor; or

3 “(D) an entity that operates the business
4 or substantially all of the property of the debtor
5 under a lease or operating agreement.

6 “‘attorney’ means an attorney, professional law
7 association, corporation, or partnership, authorized
8 under applicable law to practice law.

9 “‘claim’ means—

10 “(A) a right to payment, whether or not
11 such right is reduced to judgment, liquidated,
12 unliquidated, fixed, contingent, matured,
13 unmatured, disputed, undisputed, legal, equi-
14 table, secured, or unsecured; or

15 “(B) a right to an equitable remedy for
16 breach of performance if such breach gives rise
17 to a right to payment, whether or not such
18 right to an equitable remedy is reduced to judg-
19 ment, fixed, contingent, matured, unmatured,
20 disputed, undisputed, secured, or unsecured.

21 “‘commodity broker’ means a futures commis-
22 sion merchant, foreign futures commission mer-
23 chant, clearing organization, leverage transaction
24 merchant, or commodity options dealer (as defined

1 in section 761) with respect to which there is a cus-
2 tomer (as defined in section 761).

3 “‘community claim’ means a claim that arose
4 before the commencement of the case concerning the
5 debtor for which property of the kind specified in
6 section 541(a)(2) is liable, whether or not there is
7 any such property at the time of the commencement
8 of the case.

9 “‘consumer debt’ means debt incurred by an
10 individual primarily for a personal, family, or house-
11 hold purpose.

12 “‘corporation’—

13 “(A) includes—

14 “(i) an association having a power or
15 privilege that a private corporation, but
16 not an individual or a partnership, pos-
17 sesses;

18 “(ii) a partnership association orga-
19 nized under a law that makes only the cap-
20 ital subscribed responsible for the debts of
21 such association;

22 “(iii) a joint-stock company;

23 “(iv) an unincorporated company or
24 association; or

25 “(v) a business trust; but

1 “(B) does not include a limited partner-
2 ship.

3 “‘creditor’ means—

4 “(A) an entity that has a claim against the
5 debtor that arose at the time of or before the
6 order for relief concerning the debtor;

7 “(B) an entity that has a claim against the
8 estate of a kind specified in section 348(d),
9 502(f), 502(g), 502(h), or 502(i); or

10 “(C) an entity that has a community
11 claim.

12 “‘custodian’ means—

13 “(A) a receiver or trustee of any of the
14 property of the debtor, appointed in a case or
15 proceeding not under this title;

16 “(B) an assignee under a general assign-
17 ment for the benefit of the debtor’s creditors; or

18 “(C) a trustee, receiver, or agent under ap-
19 plicable law, or under a contract, that is ap-
20 pointed or authorized to take charge of property
21 of the debtor for the purpose of enforcing a lien
22 against such property, or for the purpose of
23 general administration of such property for the
24 benefit of the debtor’s creditors.

25 “‘debt’ means liability on a claim.

1 “‘debtor’ means a person or municipality con-
2 cerning which a case under this title has been com-
3 menced.

4 “‘disinterested person means a person that—

5 “(A) is not a creditor, an equity security
6 holder, or an insider;

7 “(B) is not and was not an investment
8 banker for any outstanding security of the debt-
9 or;

10 “(C) has not been, within 3 years before
11 the date of the filing of the petition, an invest-
12 ment banker for a security of the debtor, or an
13 attorney for such an investment banker in con-
14 nection with the offer, sale, or issuance of a se-
15 curity of the debtor;

16 “(D) is not and was not, within 2 years be-
17 fore the date of the filing of the petition, a di-
18 rector, officer, or employee of the debtor or of
19 an investment banker specified in subparagraph
20 (B) or (C); and

21 “(E) does not have an interest materially
22 adverse to the interest of the estate or of any
23 class of creditors or equity security holders, by
24 reason of any direct or indirect relationship to,
25 connection with, or interest in, the debtor or an

1 investment banker specified in subparagraph
2 (B) or (C), or for any other reason.

3 “‘entity’ includes a person, estate, trust, gov-
4 ernmental unit, and United States trustee.

5 “‘equity security’ means—

6 “(A) a share in a corporation, whether or
7 not transferable or denominated ‘stock’, or
8 similar security;

9 “(B) an interest of a limited partner in a
10 limited partnership; or

11 “(C) a warrant or right, other than a right
12 to convert, to purchase, sell, or subscribe to a
13 share, security, or interest of a kind specified in
14 subparagraph (A) or (B).

15 “‘equity security holder’ means a holder of an
16 equity security of the debtor.

17 “‘family farmer’ means—

18 “(A) an individual or individual and spouse
19 engaged in a farming operation whose aggre-
20 gate debts do not exceed \$1,500,000 and not
21 less than 80 percent of whose aggregate
22 noncontingent, liquidated debts (excluding a
23 debt for the principal residence of such individ-
24 ual or such individual and spouse unless such
25 debt arises out of a farming operation), on the

1 date the case is filed, arise out of a farming op-
2 eration owned or operated by such individual or
3 such individual and spouse, and such individual
4 or such individual and spouse receive from such
5 farming operation more than 50 percent of such
6 individual's or such individual and spouse's
7 gross income for the taxable year preceding the
8 taxable year in which the case concerning such
9 individual or such individual and spouse was
10 filed; or

11 “(B) a corporation or partnership in which
12 more than 50 percent of the outstanding stock
13 or equity is held by one family, or by one family
14 and the relatives of the members of such family,
15 and such family or such relatives conduct the
16 farming operation—

17 “(i) more than 80 percent of the value
18 of its assets consists of assets related to
19 the farming operation;

20 “(ii) its aggregate debts do not exceed
21 \$1,500,000 and not less than 80 percent of
22 its aggregate noncontingent, liquidated
23 debts (excluding a debt for one dwelling
24 which is owned by such corporation or
25 partnership and which a shareholder or

1 partner maintains as a principal residence,
2 unless such debt arises out of a farming
3 operation), on the date the case is filed,
4 arise out of the farming operation owned
5 or operated by such corporation or such
6 partnership; and

7 “(iii) if such corporation issues stock,
8 such stock is not publicly traded.

9 “‘family farmer with regular annual income’
10 means a family farmer whose annual income is suffi-
11 ciently stable and regular to enable such family
12 farmer to make payments under a plan under chap-
13 ter 12.

14 “‘farmer’ means (except when such term ap-
15 pears in the term ‘family farmer’) a person that re-
16 ceived more than 80 percent of such person’s gross
17 income during the taxable year of such person imme-
18 diately preceding the taxable year of such person
19 during which the case under this title concerning
20 such person was commenced from a farming oper-
21 ation owned or operated by such person.

22 “‘farming operation’ includes farming, tillage
23 of the soil, dairy farming, ranching, production or
24 raising of crops, poultry, or livestock, and production

1 of poultry or livestock products in an unmanufac-
2 tured state.

3 “‘Federal depository institutions regulatory
4 agency’ means—

5 “(A) with respect to an insured depository
6 institution (as defined in section 3(c)(2) of the
7 Federal Deposit Insurance Act (12 U.S.C.
8 1813(c)(2)) for which no conservator or receiver
9 has been appointed, the appropriate Federal
10 banking agency (as defined in section 3(q) of
11 that Act);

12 “(B) with respect to an insured credit
13 union (including an insured credit union for
14 which the National Credit Union Administra-
15 tion has been appointed conservator or liquidat-
16 ing agent), the National Credit Union Adminis-
17 tration;

18 “(C) with respect to any insured depository
19 institution for which the Resolution Trust Cor-
20 poration has been appointed conservator or re-
21 ceiver, the Resolution Trust Corporation; and

22 “(D) with respect to any insured deposi-
23 tory institution for which the Federal Deposit
24 Insurance Corporation has been appointed con-

1 servator or receiver, the Federal Deposit Insur-
2 ance Corporation.

3 “‘financial institution’ means a person that is
4 a commercial or savings bank, industrial savings
5 bank, savings and loan association, or trust company
6 and, when any such person is acting as agent or cus-
7 todian for a customer in connection with a securities
8 contract (as defined in section 741(a)), the cus-
9 tomer.

10 “‘foreign proceeding’ means a proceeding,
11 whether judicial or administrative and whether or
12 not under bankruptcy law, in a foreign country in
13 which the debtor’s domicile, residence, principal
14 place of business, or principal assets were located at
15 the commencement of such proceeding, for the pur-
16 pose of liquidating an estate, adjusting debts by
17 composition, extension, or discharge, or effecting a
18 reorganization.

19 “‘foreign representative’ means a duly selected
20 trustee, administrator, or other representative of an
21 estate in a foreign proceeding.

22 “‘forward contract’ means a contract (other
23 than a commodity contract) for the purchase, sale,
24 or transfer of a commodity, as defined in section
25 761, or any similar good, article, service, right, or

1 interest which is presently or in the future becomes
2 the subject of dealing in the forward contract trade,
3 or product or byproduct thereof, with a maturity
4 date more than 2 days after the date the contract
5 is entered into, including, but not limited to, a re-
6 purchase transaction, reverse repurchase trans-
7 action, consignment, lease, swap, hedge transaction,
8 deposit, loan, option, allocated transaction,
9 unallocated transaction, or any combination thereof
10 or option thereon.

11 “‘forward contract merchant’ means a person
12 whose business consists in whole or in part of enter-
13 ing into forward contracts as or with merchants in
14 a commodity (as defined in section 761) or any simi-
15 lar good, article, service, right, or interest which is
16 presently or in the future becomes the subject of
17 dealing in the forward contract trade.

18 “‘governmental unit’ means—

19 “(A) the United States, a State, Common-
20 wealth, or Territory, the District of Columbia,
21 a municipality, and a foreign state;

22 “(B) a department, agency, or instrumen-
23 tality of the United States (but not a United
24 States trustee while serving as a trustee in a
25 case under this title), a State, Commonwealth,

1 or Territory, the District of Columbia, a mu-
2 nicipality, a foreign state; or

3 “(C) any other foreign or domestic govern-
4 ment.

5 “‘indenture’ means a mortgage, deed of trust,
6 or indenture, under which there is outstanding a se-
7 curity, other than a voting-trust certificate, con-
8 stituting a claim against the debtor, a claim secured
9 by a lien on any of the debtor’s property, or an eq-
10 uity security of the debtor.

11 “‘indenture trustee’ means a trustee under an
12 indenture.

13 “‘individual with regular income’ means an in-
14 dividual whose income is sufficiently stable and reg-
15 ular to enable such individual to make payments
16 under a plan under chapter 13, other than a stock-
17 broker or a commodity broker.

18 “‘insider’ includes—

19 “(A) if the debtor is an individual—

20 “(i) a relative of the debtor or of a
21 general partner of the debtor;

22 “(ii) a partnership in which the debtor
23 is a general partner;

24 “(iii) a general partner of the debtor;

25 or

1 “(iv) a corporation of which the debt-
2 or is a director, officer, or person in con-
3 trol;

4 “(B) if the debtor is a corporation—

5 “(i) a director of the debtor;

6 “(ii) an officer of the debtor;

7 “(iii) a person in control of the debt-
8 or;

9 “(iv) a partnership in which the debt-
10 or is a general partner;

11 “(v) a general partner of the debtor;
12 or

13 “(vi) a relative of a general partner,
14 director, officer, or person in control of the
15 debtor;

16 “(C) if the debtor is a partnership—

17 “(i) a general partner in the debtor;

18 “(ii) a relative of a general partner in,
19 general partner of, or person in control of
20 the debtor;

21 “(iii) a partnership in which the debt-
22 or is a general partner;

23 “(iv) a general partner of the debtor;
24 or

25 “(v) a person in control of the debtor;

1 “(D) if the debtor is a municipality, an
2 elected official of the debtor or relative of an
3 elected official of the debtor;

4 “(E) an affiliate, or insider of an affiliate
5 as if such affiliate were the debtor; and

6 “(F) a managing agent of the debtor.

7 “‘insolvent’ means—

8 “(A) with reference to an entity other than
9 a partnership and a municipality, being in a fi-
10 nancial condition such that the sum of the enti-
11 ty’s debts is greater than all of the entity’s
12 property, at a fair valuation, exclusive of—

13 “(i) property transferred, concealed,
14 or removed with intent to hinder, delay, or
15 defraud such entity’s creditors; and

16 “(ii) property that may be exempted
17 from property of the estate under section
18 522;

19 “(B) with reference to a partnership, being
20 in a financial condition such that the sum of
21 the partnership’s debts is greater than the ag-
22 gregate of, at a fair valuation—

23 “(i) all of the partnership’s property,
24 exclusive of property of the kind specified
25 in subparagraph (A)(i); and

1 “(B) the sum of the excess of the
2 value of each general partner’s
3 nonpartnership property, exclusive of prop-
4 erty of the kind specified in subparagraph
5 (A), over such partner’s nonpartnership
6 debts; and

7 “(C) with reference to a municipality,
8 being in a financial condition such that the mu-
9 nicipality is—

10 “(i) generally not paying its debts as
11 they become due unless such debts are the
12 subject of a bona fide dispute; and

13 “(ii) unable to pay its debts as they
14 become due.

15 “‘institution-affiliated party’—

16 “(A) with respect to an insured depository
17 institution (as defined in section 3(c)(2) of the
18 Federal Deposit Insurance Act) (12 U.S.C.
19 1813(c)(2)), has the meaning given it in section
20 3(u) of the Federal Deposit Insurance Act (12
21 U.S.C. 1813(u)); and

22 “(2) with respect to an insured credit
23 union, has the meaning given it in section
24 206(r) of the Federal Credit Union Act (12
25 U.S.C. 1786(r)).

1 “‘insured credit union’ has the meaning given
2 it in section 101(7) of the Federal Credit Union Act
3 (12 U.S.C. 1752(7)).

4 “‘insured depository institution’—

5 “(A) has the meaning given it in section
6 3(c)(2) of the Federal Deposit Insurance Act
7 (12 U.S.C. 1813(c)(2)); and

8 “(B) includes an insured credit union (ex-
9 cept as provided in the definition of ‘Federal
10 depository institutions regulatory agency’ and
11 in subparagraph (B) of the definition of ‘insti-
12 tution-affiliated party’).

13 “‘intellectual property’ means—

14 “(A) a trade secret;

15 “(B) an invention, process, design, or plant
16 protected under title 35;

17 “(C) a patent application;

18 “(D) a plant variety;

19 “(E) a work of authorship protected under
20 title 17; and

21 “(F) a mask work protected under chapter
22 9 of title 17, to the extent protected by applica-
23 ble nonbankruptcy law.

1 “‘judicial lien’ means a lien obtained by judg-
2 ment, levy, sequestration, or other legal or equitable
3 process or proceeding.

4 “‘lien’ means a charge against or interest in
5 property to secure payment of a debt or performance
6 of an obligation.

7 “‘margin payment’, as used in sections
8 362(b)(6), 546 (e) and (f), 548 (d)(2) (B) and (C),
9 556, 741(5), 761(15), 764(b), 766(a), and any other
10 provision of this title in relation to forward con-
11 tracts, means a payment or deposit of cash, a secu-
12 rity, or other property that is commonly known in
13 the forward contract trade as original margin, initial
14 margin, maintenance margin, or variation margin,
15 including market-to-market payments or variation
16 payments.

17 “‘mask work’ has the meaning given it in sec-
18 tion 901(a)(2) of title 17.

19 “‘municipality’ means a political subdivision or
20 public agency or instrumentality of a State.

21 “‘person’ includes an individual, partnership,
22 and corporation, but does not include a govern-
23 mental unit, except that a governmental unit that
24 acquires an asset from a person as a result of oper-
25 ation of a loan guarantee agreement, or as receiver

1 or liquidating agent of a person, shall be considered
2 to be a person for purposes of section 1102.

3 “‘petition’ means a petition filed under section
4 301, 302, 303, or 304 commencing a case under this
5 title.

6 “‘purchaser’ means a transferee of a voluntary
7 transfer, and includes an immediate or mediate
8 transferee of such a transferee.

9 “‘railroad’ means a common carrier by railroad
10 engaged in the transportation of individuals or prop-
11 erty or owner of trackage facilities leased by such a
12 common carrier.

13 “‘relative’ means an individual related by affin-
14 ity or consanguinity within the third degree as deter-
15 mined by the common law and an individual in a
16 step or adoptive relationship within such third de-
17 gree.

18 “‘repo participant’ means an entity that, on
19 any day during the period beginning 90 days before
20 the date of the filing of a petition, has an outstand-
21 ing repurchase agreement with the debtor.

22 “‘repurchase agreement’ and ‘reverse repur-
23 chase agreement’ mean an agreement, including re-
24 lated terms, which provides for the transfer of cer-
25 tificates of deposit, eligible bankers’ acceptances, or

1 securities that are direct obligations of, or that are
2 fully guaranteed as to principal and interest by, the
3 United States or any agency of the United States
4 against the transfer of funds by the transferee of
5 such certificates of deposit, eligible bankers' accept-
6 ances, or securities with a simultaneous agreement
7 by such transferee to transfer to the transferor
8 thereof certificates of deposit, eligible bankers' ac-
9 ceptances, or securities as described above, at a date
10 certain not later than 1 year after such transfers or
11 on demand, against the transfer of funds.

12 “‘security’—

13 “(A) includes—

14 “(i) a note;

15 “(ii) stock;

16 “(iii) treasury stock;

17 “(iv) a bond;

18 “(v) a debenture;

19 “(vi) a collateral trust certificate;

20 “(vii) a preorganization certificate or
21 subscription;

22 “(viii) a transferable share;

23 “(ix) a voting-trust certificate;

24 “(x) a certificate of deposit;

1 “(xi) a certificate of deposit for secu-
2 rity;

3 “(xii) an investment contract or cer-
4 tificate of interest or participation in a
5 profit-sharing agreement or in an oil, gas,
6 or mineral royalty or lease, if such contract
7 or interest is required to be the subject of
8 a registration statement filed with the Se-
9 curities and Exchange Commission under
10 the provisions of the Securities Act of
11 1933 (15 U.S.C. 77a et seq.), or is exempt
12 under section 3(b) of that Act (15 U.S.C.
13 77c(b)) from the requirement to file such
14 a statement;

15 “(xiii) an interest of a limited partner
16 in a limited partnership;

17 “(xiv) another claim or interest com-
18 monly known as a ‘security’; and

19 “(xv) a certificate of interest or par-
20 ticipation in, temporary or interim certifi-
21 cate for, receipt for, or warrant or right to
22 subscribe to or purchase or sell, a security;
23 but

24 “(B) does not include—

1 “(i) currency or a check, draft, bill of
2 exchange, or bank letter of credit;

3 “(ii) a leverage transaction (as de-
4 fined in section 761);

5 “(iii) a commodity futures contract or
6 forward contract;

7 “(iv) an option, warrant, or right to
8 subscribe to or purchase or sell a commod-
9 ity futures contract;

10 “(v) an option to purchase or sell a
11 commodity;

12 “(vi) a contract or certificate of a
13 kind specified in subparagraph (A)(xii)
14 that is not required to be the subject of a
15 registration statement filed with the Secu-
16 rities and Exchange Commission and is not
17 exempt under section 3(b) of the Securities
18 Act of 1933 (15 U.S.C. 77c(b)) from the
19 requirement to file such a statement; or

20 “(vii) debt or an evidence of indebted-
21 ness for goods sold and delivered or serv-
22 ices rendered.

23 “‘security agreement’ means an agreement that
24 creates or provides for a security interest.

1 “‘securities clearing agency’ means a person
2 that is registered as a clearing agency under section
3 17A of the Securities Exchange Act of 1934 (15
4 U.S.C. 78q-1) or whose business is confined to the
5 performance of functions of a clearing agency with
6 respect to exempted securities (as defined in section
7 3(a)(12) of that Act (15 U.S.C. 78c(12)) for the
8 purposes of that section 17A.

9 “‘security interest’ means a lien created by an
10 agreement.

11 “‘settlement payment’ means, for purposes of
12 the forward contract provisions of this title, a pre-
13 liminary settlement payment, partial settlement pay-
14 ment, interim settlement payment, settlement pay-
15 ment on account, final settlement payment, net set-
16 tlement payment, or any other similar payment com-
17 monly used in the forward contract trade.

18 “‘State’ includes the District of Columbia and
19 Puerto Rico, except for the purpose of defining who
20 may be a debtor under chapter 9.

21 “‘statutory lien’ means a lien arising solely by
22 force of a statute on specified circumstances or con-
23 ditions, or lien of distress for rent, whether or not
24 statutory, but does not include a security interest or
25 judicial lien, whether or not such interest or lien is

1 provided by or is dependent on a statute and wheth-
2 er or not such interest or lien is made fully effective
3 by statute.

4 “‘stockbroker’ means a person—

5 “(A) with respect to which there is a cus-
6 tomer (as defined in section 741); and

7 “(B) that is engaged in the business of
8 effecting transactions in securities—

9 “(i) for the account of others; or

10 “(ii) with members of the general
11 public, from or for such person’s own ac-
12 count.

13 “‘swap agreement’ means—

14 “(A) an agreement (including terms and
15 conditions incorporated by reference therein)
16 which is a rate swap agreement, basis swap,
17 forward rate agreement, commodity swap, inter-
18 est rate option, forward foreign exchange agree-
19 ment, rate cap agreement, rate floor agreement,
20 rate collar agreement, currency swap agree-
21 ment, cross-currency rate swap agreement, cur-
22 rency option, or any other similar agreement
23 (including any option to enter into any of the
24 foregoing);

25 “(2) any combination of the foregoing; or

1 “(3) a master agreement for any of the
2 foregoing together with all supplements.

3 “‘swap participant’ means an entity that, at
4 any time before the filing of a petition, has an out-
5 standing swap agreement with the debtor.

6 “‘timeshare interest’ means an interest pur-
7 chased in a timeshare plan which grants the pur-
8 chaser the right to use and occupy accommodations,
9 facilities, or recreational sites, whether improved or
10 unimproved, pursuant to a timeshare plan.

11 “‘timeshare plan’ means an interest in any ar-
12 rangement, plan, scheme, or similar device (but not
13 including an exchange program), whether by mem-
14 bership, agreement, tenancy in common, sale, lease,
15 deed, rental agreement, license, right to use agree-
16 ment, or by any other means, whereby a purchaser
17 of the interest, in exchange for consideration, re-
18 ceives a right to use accommodations, facilities, or
19 recreational sites, whether improved or unimproved,
20 for a specific period of time less than a full year
21 during any given year, but not necessarily for con-
22 secutive years, and which extends for a period of
23 more than 3 years.

24 “‘transfer’ means a mode, direct or indirect,
25 absolute or conditional, voluntary or involuntary, of

1 disposing of or parting with property or with an in-
 2 terest in property, including retention of title as a
 3 security interest and foreclosure of the debtor's eq-
 4 uity of redemption.

5 “‘United States’, when used in a geographical
 6 sense, includes all locations where the judicial juris-
 7 diction of the United States extends, including terri-
 8 tories and possessions of the United States.

9 (b) REFERENCES TO DEFINITIONS IN TITLE XI.—

10 (1) SECTION 362.—Section 362(b) of title 11,
 11 United States Code, is amended—

12 (A) in paragraph (6)—

13 (i) by striking “section 761(4)” and
 14 inserting “section 761”;

15 (ii) by striking “section 741(7)” and
 16 inserting “section 741”;

17 (iii) by striking “section 101(34),
 18 741(5), or 761(15)” and inserting “section
 19 101, 741, or 761”; and

20 (iv) by striking “section 101(35) or
 21 741(8)” and inserting “section 101 or
 22 741”; and

23 (B) in paragraph (7)—

1 (i) by striking “section 741(5) or
2 761(15)” and inserting “section 741 or
3 761”; and

4 (ii) by striking “section 741(8)” and
5 inserting “section 741”.

6 (2) SECTION 507.—Section 507(a)(5) of title
7 11, United States Code, is amended—

8 (A) by striking “section 557(b)(1)” and in-
9 serting “section 557(b)”; and

10 (B) by striking “section 557(b)(2)” and in-
11 serting “section 557(b)”.

12 (3) Section 546 of title 11, United States Code,
13 is amended—

14 (A) in subsection (e)—

15 (i) by striking “section 101(34),
16 741(5), or 761(15)” and inserting “section
17 101, 741, or 761”; and

18 (ii) by striking “section 101(35) or
19 741(8)” and inserting “section 101 or
20 741”; and

21 (B) in subsection (f)—

22 (i) by striking “section 741(5) or
23 761(15)” and inserting “section 741 or
24 761”; and

1 (ii) by striking “section 741(8)” and
2 inserting “section 741”.

3 (4) SECTION 548.—Section 548(d)(2) of title
4 11, United States Code, is amended—

5 (A) in subparagraph (B)—

6 (i) by striking “section 101(34),
7 741(5) or 761(15)” and inserting “section
8 101, 741, or 761”; and

9 (ii) by striking “section 101(35) or
10 741(8)” and inserting “section 101 or
11 741”; and

12 (B) in subparagraph (C)—

13 (i) by striking “section 741(5) or
14 761(15)” and inserting “section 741 or
15 761”; and

16 (ii) by striking “section 741(8)” and
17 inserting “section 741”.

18 (5) SECTION 555.—Section 555 of title 11,
19 United States Code, is amended by striking “section
20 741(7)” and inserting “section 741”.

21 (6) SECTION 556.—Section 556 of title 11,
22 United States Code, is amended by striking “section
23 761(4)” and inserting “section 761”.

24 (c) REFERENCES TO DEFINITIONS IN OTHER
25 LAWS.—

1 (1) FEDERAL CREDIT UNION ACT.—Section
2 207(c)(8)(D) of the Federal Credit Union Act (12
3 U.S.C. 1787(c)(8)(D)) is amended—

4 (A) in clause (ii)(I) by striking “section
5 741(7)” and inserting “section 741”;

6 (B) in clause (iii) by striking “section
7 101(24)” and inserting “section 101”;

8 (C) in clause (iv)(I) by striking “section
9 101(41)” and inserting “section 101”; and

10 (D) in clause (v) by striking “section
11 101(50)” and inserting “section 101”.

12 (2) FEDERAL DEPOSIT INSURANCE ACT.—Sec-
13 tion 11(e)(8)(D) of the Federal Deposit Insurance
14 Act (12 U.S.C. 1821(e)(8)(D)) is amended—

15 (A) in clause (ii)(I) by striking “section
16 741(7)” and inserting “section 741”;

17 (B) in clause (iii) by striking “section
18 761(4)” and inserting “section 761”;

19 (C) in clause (iv) by striking “section
20 101(24)” and inserting “section 101”;

21 (D) in clause (v)(I) by striking “section
22 101(41)” and inserting “section 101”; and

23 (E) in clause (viii) by striking “section
24 101(50)” and inserting “section 101”.

1 (d) OTHER TECHNICAL AMENDMENTS.—Title 11 of
 2 the United States Code is amended—

3 (1) in section 322(a) by striking “1302, or
 4 1202” and inserting “1202, or 1302”,

5 (2) in section 346—

6 (A) in subsection (a) by striking “Internal
 7 Revenue Code of 1954 (26 U.S.C. 1 et seq.)”
 8 and inserting “Internal Revenue Code of
 9 1986”; and

10 (B) in subsection (g)(1)(C) by striking
 11 “Internal Revenue Code of 1954 (26 U.S.C.
 12 371)” and inserting “Internal Revenue Code of
 13 1986”;

14 (3) in section 348—

15 (A) in subsection (b) by striking “728(a),
 16 728(b), 1102(a), 1110(a)(1), 1121(b), 1121(c),
 17 1141(d)(4), 1146(a), 1146(b), 1301(a),
 18 1305(a), 1201(a), 1221, and 1228(a)” and in-
 19 serting “728 (a) and (b), 1021, 1028, 1102(a),
 20 1110(a)(1), 1121 (b) and (c), 1141(d)(4), 1146
 21 (a) and (b), 1201(a), 1221, 1228(a), 1301(a),
 22 and 1305(a)”;

23 (B) in subsections (b), (c), (d), and (e) by
 24 striking “1307, or 1208” each place it appears
 25 and inserting “1208, or 1307”;

1 (4) in section 349(a) by striking “109(f)” and
2 inserting “109(g)”;

3 (5) in section 362(b)—

4 (A) by striking “or” at the end of para-
5 graph (10);

6 (B) in paragraph (12) by striking “the
7 Ship Mortgage Act, 1920 (46 App. U.S.C. 911
8 et seq.)” and inserting “section 31325 of title
9 46, United States Code”;

10 (C) in paragraph (13)—

11 (i) by striking “the Ship Mortgage
12 Act, 1920 (46 App. U.S.C. 911 et seq.)”
13 and inserting “section 31325 of title 46,
14 United States Code”; and

15 (ii) by striking “or” at the end;

16 (D) in paragraph (14), as added by section
17 102 of Public Law 101–311 (104 Stat. 267) at
18 the end of the subsection, by removing it from
19 the end of the subsection, inserting it after
20 paragraph (13), and striking the period at the
21 end and inserting a semicolon; and

22 (E) by redesignating paragraphs (14),
23 (15), and (16), as added by section 3007(a) of
24 the Student Loan Default Prevention Initiative
25 Act of 1990 (104 Stat. 1388–28), as para-

1 graphs (15), (16), and (17), striking “or” at
2 the end of paragraph (16), as redesignated by
3 this subparagraph, and adding “or” at the end
4 of paragraph (17), as redesignated by this sub-
5 paragraph;

6 (6) in section 363(c)(1) by striking “1304,
7 1203, or 1204” and inserting “1203, 1204, or
8 1304”;

9 (7) in section 364(a) by striking “1304, 1203,
10 or 1204” and inserting “1203, 1204, or 1304”;

11 (8) in section 365—

12 (A) in subsection (g)(2) (A) and (B) by
13 striking “1307, or 1208” each place it appears
14 and inserting “1208, or 1307”;

15 (B) in subsection (n)(1)(B) by striking “to
16 to” and inserting “to”; and

17 (C) in subsection (o) by striking “the Fed-
18 eral” the first place it appears and all that fol-
19 lows through “successors,” and inserting “a
20 Federal depository institutions regulatory agen-
21 cy (or predecessor to such an agency)”;

22 (9) in section 507—

23 (A) in subsection (a)(8) by striking “the
24 Federal” the first place it appears and all that
25 follows through “successors,” and inserting “a

1 Federal depository institutions regulatory agen-
 2 cy (or predecessor to such an agency)”; and

3 (B) in subsection (d) by striking “(a)(3),
 4 (a)(4), (a)(5), or (a)(6)” and inserting “(a) (3),
 5 (4), (6), or (7)”;

6 (10) in section 522(d)(10)(E)(iii) by striking
 7 “401(a), 401(b), 403(a), 403(b), 408, or 409 Inter-
 8 nal Revenue Code of 1954 (26 U.S.C. 401(a),
 9 401(b), 403(a), 403(b), 408, or 409)” and inserting
 10 “section 401 (a) or (b), 403 (a) or (b), 408, or 409
 11 of the Internal Revenue Code of 1986”;

12 (11) in section 523(a) —

13 (A) in subsection (a)—

14 (i) by striking “1141,, 1228(a),
 15 1228(b),” and inserting “1141, 1228 (a)
 16 or (b),”; and

17 (ii) in paragraph (12) by striking the
 18 semicolon at the end and inserting a pe-
 19 riod; and

20 (B) in subsection (e) by striking “deposi-
 21 tory institution or insured credit union” and in-
 22 serting “insured depository institution”;

23 (12) in section 524—

1 (A) in subsection (a)(3) by striking “or
 2 1328(c)(1)” and inserting “, 1228(a)(1), or
 3 1328(a)(1)”;

4 (B) in subsection (c)(4) by striking
 5 “recission” and inserting “rescission”; and

6 (C) in subsection (d)(1)(B)(ii) by adding
 7 “and” at the end;

8 (12) in section 542(e) by striking “to to” and
 9 inserting “to”;

10 (13) in section 543(d)(1) by striking “of eq-
 11 uity” and inserting “if equity”;

12 (14) in section 546(a)(1) by striking “1302, or
 13 1202” and inserting “1202, or 1302”;

14 (15) in section 549(b) by inserting “the trustee
 15 may not avoid under subsection (a) of this section”
 16 after “involuntary case,”;

17 (16) in section 553—

18 (A) in subsection (a)(1) by striking “other
 19 than under section 502(b)(3) of this title”; and

20 (B) in subsection (b)(1) by striking
 21 “362(b)(14),,” and inserting “362(b)(14),”;

22 (17) in section 706(a) by striking “1307, or
 23 1208” and inserting “1208, or 1307”;

1 (18) in section 724(d) by striking “Internal
2 Revenue Code of 1954 (26 U.S.C. 6323)” and in-
3 serting “Internal Revenue Code of 1986”;

4 (19) in section 726(b)—

5 (A) by inserting a comma after “section
6 1112”; and

7 (B) by inserting “1009,” after “chapter
8 under section”;

9 (20) in section 743 by striking “342(a)” and
10 inserting “342”;

11 (21) in section 745(c) by striking “Internal
12 Revenue Code of 1954 (26 U.S.C. 1 et seq.)” and
13 inserting “Internal Revenue Code of 1986”;

14 (22) in section 1104(c) inserting a comma after
15 “interest”;

16 (23) in section 1123(a)(1) inserting a comma
17 after “title” the last place it appears;

18 (24) in section 1129(a)—

19 (A) in paragraph (4) by striking the semi-
20 colon at the end and inserting a period; and

21 (B) in paragraph (12) inserting “of title
22 28” after “section 1930”;

23 (25) in section 1145(a) by striking “does” and
24 inserting “do”;

25 (26) in section 1226(b)(2)—

1 (A) by striking “1202(d) of this title” and
 2 inserting “1202(c)”; and

3 (B) by striking “1202(e) of this title” and
 4 inserting “1202(d)”;

5 (27) in section 1302(b)(3) by striking “and” at
 6 the end;

7 (28) in section 1328(a)—

8 (A) in paragraph (2) by striking “(5) or
 9 (8)” and inserting “(5), (8), or (9)”;

10 (B) by striking paragraph (3), as added by
 11 section 3103 of Public Law 101–64 (104 Stat.
 12 4916)”;

13 (29) in the table of chapters by striking the
 14 item relating to chapter 15.

15 **SEC. 502. TITLE 28, UNITED STATES CODE.**

16 Section 586(a)(3) of title 28, United States Code, is
 17 amended in the matter preceding subparagraph (A) by in-
 18 serting “12,” after “11,”.

19 **TITLE VI—SEVERABILITY; EF-**
 20 **FECTIVE DATE; APPLICATION**
 21 **OF AMENDMENTS**

22 **SEC. 601. SEVERABILITY.**

23 If any provision of this Act or amendment made by
 24 this Act or the application of such provision or amendment
 25 to any person or circumstance is held to be unconstitu-

1 tional, the remaining provisions of and amendments made
 2 by this Act and the application of such other provisions
 3 and amendments to any person or circumstance shall not
 4 be affected thereby.

5 **SEC. 602. EFFECTIVE DATE; APPLICATION OF AMEND-**
 6 **MENTS.**

7 (a) EFFECTIVE DATE.—Except as provided in sub-
 8 section (b), this Act and the amendments made by this
 9 Act shall take effect on the date of enactment of this Act.

10 (b) APPLICATION OF AMENDMENTS.—

11 (1) IN GENERAL.—Except as provided in sec-
 12 tion 115(c) and in paragraph (2) of this subsection,
 13 the amendments made by this Act shall not apply
 14 with respect to cases commenced under title 11,
 15 United States Code, before the date of enactment of
 16 this Act.

17 (2) SECTION 1110 OF TITLE 11.—Section 1110
 18 of title 11, United States Code, as amended by sec-
 19 tion 203, shall apply with respect to any lease (as
 20 defined in section 1110(c)), entered into in connec-
 21 tion with a settlement of any litigation in any case
 22 pending under title 11, United States Code, on the
 23 date of enactment of this Act.

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S 540 IS—2

S 540 IS—3

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